BENGAL SECRETARIAT
LIBRARY

ABSTRACT OF THE PROCEEDINGS

OF

THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA.

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS,

1893,

WITH INDEX.

VOLUME XXXII.

Published by Authority of the Governor General.

CALCUTTA:
OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.
1893.

CALCUTTA:

OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.

8, HASTINGS STREET.

ABSTRACT OF THE PROCEEDINGS

OF

THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA,

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS.

1893.

INDEX

TO

ABSTRACT OF PROCEEDINGS

OF

THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA,

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS.

VOLUME XXXII.

A

Pages.

ACT X OF 1870. See *Land Acquisition Act, 1870, Amendment Bill.*

„ XXIII OF 1870. See *Indian Coinage and Paper Currency Bill.*

„ V OF 1871. See *Prisoners Act, 1871, Amendment Bill.*

„ XV OF 1877. See *Code of Civil Procedure and Indian Limitation Act, 1877, Amendment Bill.*

„ I OF 1879. See *Indian Stamp Act, 1879, Amendment Bill.*

„ XXII OF 1881. See *Excise Act, 1881, Amendment Bill.*

„ I OF 1882. See *Inland Emigration Act, 1882, Amendment Bill.*

„ XI OF 1882. See *Indian Tariff Act, 1882, Amendment Bill.*

„ XIV OF 1882. See *Code of Civil Procedure and Indian Limitation Act, 1877, Amendment Bill.*

„ XV OF 1882. See *Presidency Small Cause Courts Act, 1882, Amendment Bill.*

„ XX OF 1882. See *Indian Coinage and Paper Currency Bill.*

„ X OF 1889. See *Indian Ports Act, 1889, Amendment Bill.*

ADDITIONAL MEMBERS—

Hon'ble J. Woodburn . . . . . 1, 48, 70, 139, 150 & 210

„ Sir G. H. P. Evans . 1, 3, 4, 7, 65, 89, 199, 200, 208, 215 to 224

C. C. Stevens . 1, 151, 152, 177, 178, 192 to 198, 205, 206 & 212 to 214.

Raja Udai Partab Singh of Bhinga . . . . 1, 2 & 55

Pages.

ADDITIONAL MEMBERS—*continued.*

Hon'ble Dr. Rash Behari Ghose 1, 3, 56, 70, 90 to 93, 152, 154 to 163, 181, 182, 200 & 228.
„ Palli Chentsal Rao Pantulu . 1, 3, 67, 149 & 150, 154, 224 to 228
„ G. R. Elsmie . . . . . 4, 19, 20 & 53
„ Fazulbhai Vishram . . 31, 111, 152, 178, 179, 207, 214 & 215
„ J. Buckingham . . . . 61, 117, 151, 183 to 192 & 206
„ A. S. Lethbridge . . . . . 65, 211 & 212
„ J. L. Mackay . . . . . 59, 209, 228 to 233

AMENDMENT OF LAWS. SEE *Code of Civil Procedure and Indian Limitation Act, 1877, Amendment Bill; Code of Criminal Procedure and the Indian Penal Code; Excise Act, 1881, Amendment Bill; Indian Ports Act, 1889, Amendment Bill; Indian Stamp Act, 1879, Amendment Bill; Indian Tariff Act, 1882, Amendment Bill; Inland Emigration Act, 1882, Amendment Bill; Land Acquisition Act, 1870, Amendment Bill; Presidency Small Cause Courts Act, 1882, Amendment Bill; Prisoners Act, 1871, Amendment Bill.*

AMENDMENTS PROPOSED AND CARRIED . . . 40, 41, 81, 82, 87, 88 to 90, 146, 296, 308, 311 & 312.

AMENDMENTS PROPOSED AND NEGATIVED . . . 70 to 81, 149 to 154, 181, 206 & 211.

B

BANKERS' BOOKS EVIDENCE BILL—

Motion for leave to introduce 18
Introduced . . . . . *ib.*
Motion to publish . . . . . *ib.*
Bill considered 40
Bill passed 41

BARBOUR, HON'BLE SIR D. M., K. C. S. I.—

Disposal of surplus revenue; employment of Europeans in India . 67 & 68
Excise Act, 1881, Amendment Bill . . . 291, 292, 299, 308 & 309
Financial Statement . . . . . 118 to 138 & 241 to 249
Indian Coinage and Paper Currency Bill . . . . 257 to 270 & 277
Indian Ports Act, 1889, Amendment Bill . . . . . 293 & 297
Indian Stamp Act, 1879, Amendment Bill . . . . . 319 & 320
Indian Tariff Act, 1882, Amendment Bill . . . 292, 293 & 295 to 297
Reply to Hon'ble Mr. Mackay's query about action of Secretary of State in not fixing some minimum for the sale of his Council drafts 306 & 307

Pages.

BILL TO LEGALIZE EXECUTION IN BRITISH INDIA OF CAPITAL SENTENCES PASSED BY BRITISH COURTS IN FOREIGN TERRITORY—

Referred to Select Committee 4
Report presented . . . . . 61 & 62
Report considered 86
Amendment proposed and carried . . . . . *ib.*
Bill passed 87

BRACKENBURY, HON'BLE LIEUTENANT-GENERAL H., C.B., R.A.—

Amenability of Military officers for debt; disposal of surplus revenue 66
Financial Statement discussed . . . . . 233 to 237

BUCKINGHAM, HON'BLE J., C.I.E.—

Inland Emigration Act, 1882, Amendment Bill . 59, 151, 177, 182, 183 & 205
Land Revenue Settlement in Assam 117
Took his seat as an Additional Member of Council . . . 61

C

CHENTSAL RAO PANTULU, HON'BLE PALLI, C I.E.—

Disposal of surplus revenue; employment of Europeans in India; Land Improvement Loans; Disposal of surplus loans . . 66 & 67
Inland Emigration Act, Amendment Bill . . . . . 149 & 150
Partition Bill 77

CODE OF CIVIL PROCEDURE AND INDIAN LIMITATION ACT, 1877, AMENDMENT BILL—

Motion for leave to introduce 90
Introduced 92
Motion to publish 93

CODE OF CRIMINAL PROCEDURE AND THE INDIAN PENAL CODE—

Motion for leave to introduce postponed 294
Motion for leave to introduce 301
Introduced 303
Motion to publish . . . . . *ib.*

CONSTITUTION OF LEGISLATIVE COUNCILS . . . . . 101 to 111

COUNCIL OF THE GOVERNOR GENERAL FOR MAKING LAWS & REGULATIONS—

Adjournments . 30, 41, 53, 59, 64, 93, 116, 206, 256, 287, 289, 294, 297, 303, 309, 317 & 324
Meetings of . 1, 31, 43, 55, 61, 65, 101, 117, 207, 257, 289, 291, 295, 299, 305 313 & 319

CUTCHEE MEMON BILL—

Hon'ble Mr. Fazulbhai Vishram's question regarding the passing of 207

D

Pages.

DEBATES IN COUNCIL—

Amenability of Military officers for debt 66
Bankers' Books Evidence Bill . . . . . 18 & 40
Bill to legalise execution in British India of Capital Sentences passed by British Courts in Foreign Territory . . . 4, 61 & 62
Code of Criminal Procedure, 1882, and the Indian Penal Code Amendment Bill . . . . . 294 & 301 to 303
Constitution of Legislative Councils . . . . . 101 to 111
Cutchee Memon Bill . . . . . 207 & 208
Disposal of surplus loans 67
Disposal of surplus revenue . . . . . 66 & 67
Emigration of Indian Labourers to Australia . . . . 111 & 112
Employment of Europeans in India 67
Excise Act, 1881, Amendment Bill . . . 291 & 292, 299 & 308 & 309
Financial Statement discussed . . . . . 211 to 256
Financial Statement for 1893-94 . . . . . 118 to 138
Government Tenants (Punjab) Bill . . . . . 19 & 20 & 53
Habitual Offenders Bill . . . . . 8 to 18 & 62 to 64
Hon'ble Mr. Mackay's question regarding action of Secretary of State in not fixing some minimum for the sale of his Council drafts with reply thereon by the Hon'ble Sir David Barbour . 305 to 307
Hon'ble Mr. Mackay's question regarding revised rates for deferred telegrams 313
Indian Coinage and Paper Currency Bill . . . . . 257 to 287
Indian Fisheries Bill . . . . . 314 to 317
Indian Ports Act, 1889, Amendment Bill . . . . 293 & 294 & 297
Indian Stamp Act, 1879, Amendment Bill . . . . 319 & 320
Indian Tariff Act, 1882, Amendment Bill . . 292 & 293 & 295 to 297
Inland Emigration Act, 1882, Amendment Bill . 20 to 30 & 59, 116, 139 to 206
Land Acquisition Act, 1870, Amendment Bill . 1 to 3 & 48 to 51 & 70, 139, 208 to 211
Land Improvement Loans . . . . . 68 to 70
Land Revenue Settlement in Assam . . . . . 117 & 118
Partition Bill . . . . . 3 & 4 & 56 to 59 & 70 to 86
Petit Baronetcy Bill . . . . . 4, 5 & 31 & 88 to 90
Porahat Estate Bill . . . . . 51 & 52
Presidency Small Cause Courts Acts, 1882, Amendment Bill . 5 to 7 & 112
Prisoners Act, 1871, Amendment Bill . . . . . 321 to 324
Rules under the Indian Councils Act, 1892 . . . . . 43 to 48
Supply of provisions to Government officers on tour . . . 55 & 56
Tributary Mahals of Cuttack Bill . . . . 294, 299, 300 & 309

E

Pages.

ELSMIE, HON'BLE G. R., C.S.I.—
- Bill to legalize execution in British India of Capital Sentences passed by British Courts in Foreign Territory . . . 4
- Government Tenants (Punjab) Bill . . . . . 19 & 53

EVANS, HON'BLE SIR G. H. P., K.C I.E.—
- Amenability of Military officers for debt . . . . 65 & 66
- Bill to legalize execution in British India of Capital Sentences passed by British Courts in Foreign Territory 4
- Financial Statement discussed . . . . . 215 to 224
- Inland Emigration Act, 1882, Amendment Bill . . . . 199 & 200
- Partition Bill . . . . . 3 & 78
- Petit Baronetcy Bill . . . . . 33 to 36, 38 & 39 & 89 & 90
- Presidency Small Cause Courts Act, 1882, Amendment Bill . 7
- Took his seat as an Additional Member of Council . . . 1

EXCISE ACT, 1881, AMENDMENT BILL—
- Motion for leave to introduce 291
- Introduced 292
- Motion to publish . . . . . *ib.*
- Motion to consider Bill . . . . . *ib.*
- Date of consideration of Bill postponed 299
- Bill considered 308
- Amendment proposed and carried . . . . *ib.*
- Bill passed 309

F

FAZULBHAI VISHRAM, HON'BLE—
- Cutchee Memon Bill 207
- Emigration of Indian Labourers to Australia . . . 111
- Financial Statement discussed . . . . . 214 & 215
- Inland Emigration Act, 1882, Amendment Bill . . . 152, 178 & 179
- Took his seat as an Additional Member of Council . . . 31

FINANCIAL STATEMENT—
- Discussion of the . . . . . 211 to 256

G

GOVERNMENT TENANTS (PUNJAB) BILL—
- Motion for leave to introduce 19
- Introduced 20
- Motion to publish . . . . . *ib.*
- Bill considered 53
- Bill passed . . . . . *ib.*

H

Pages.

HABITUAL OFFENDERS BILL—
- Motion for leave to introduce 8
- Introduced 17
- Motion to publish 18
- Consideration of Bill postponed . . . . . 62 to 64

HIS EXCELLENCY THE PRESIDENT—
- Constitution of Legislative Councils . . . . . 101 to 111
- Financial Statement . . . . . 249 to 256
- Indian Coinage and Paper Currency Bill . . . 257 & 278 to 287
- Inland Emigration Act, 1882, Amendment Bill . . . . 153 & 154
- Petit Baronetcy Bill 39
- Rules under the Indian Councils Act, 1892 . . . . 43 to 48

HIS HONOUR THE LIEUTENANT-GOVERNOR OF BENGAL—
- Financial Statement discussed . . . . . 239 to 241
- Inland Emigration Act, 1882, Amendment Bill 153, 158, 180 & 181, 202 to 204
- Partition Bill . . . . . 70 to 73 & 79 & 80

HUTCHINS, HON'BLE SIR P. P., K.C.S.I.—
- Bankers' Books Evidence Bill 41
- Bill to legalize execution in British India of Capital Sentences passed by British Courts in Foreign Territory 4
- Code of Criminal Procedure and the Indian Penal Code . 294, 301 & 303
- Emigration of Indian Labourers to Australia . . . . 111 & 112
- Financial Statement discussed . . . . . 237 to 239
- Habitual Offenders Bill . . . . . 8 to 18, 62
- Indian Fisheries Bill . . . . . 314 to 318
- Indian Tariff Act, 1882, Amendment Bill 296
- Inland Emigration Act, 1882, Amendment Bill 59, 116, 139 to 149, 163 to 177, 179, 200 to 202 & 205
- Land Acquisition Act, 1870, Amendment Bill . . . . 1 & 210
- Land Improvement Loans . . . . . 68 to 70
- Land Revenue Settlement in Assam . . . . . 117 & 118
- Partition Bill . . . . . 3, 78 & 79
- Presidency Small Cause Courts Act, 1882, Amendment Bill . . 116
- Supply of provisions to Government officers on tour 55

I

INDIAN COINAGE AND PAPER CURRENCY BILL—
- Motion for leave to introduce 257
- Rules of Business suspended . . . . . *ib.*
- Bill introduced 270

INDIAN FISHERIES BILL—
- Motion for leave to introduce . . . . . 314 to 317

Pages.

INDIAN FISHERIES BILL—*continued.*

Introduced 317
Motion to publish 318

INDIAN PORTS ACT, 1889, AMENDMENT BILL—

Motion for leave to introduce 293
Introduced 294
Motion to publish . . . . . *ib.*
Date fixed for consideration of Bill 297

INDIAN STAMP ACT, 1879, AMENDMENT BILL—

Motion for leave to introduce 319
Introduced 320
Motion to publish . . . . . *ib.*

INDIAN TARIFF ACT, 1882, AMENDMENT BILL—

Motion for leave to introduce 292
Introduced 293
Motion to publish . . . . . *ib.*
Motion to consider Bill . . . . . *ib.*
Bill considered 295
Bill passed 297

INLAND EMIGRATION ACT, 1882, AMENDMENT BILL—

Motion for leave to introduce 20
Introduced 30
Motion to publish . . . . . *ib.*
Referred to Select Committee 59
Report presented 116
Report considered . . . . . 139 to 206
Bill as amended passed 206

L

LAND ACQUISITION ACT, 1870, AMENDMENT BILL—

Referred to Select Committee 1
Preliminary Report presented . . . . . 48 to 51
Select Committee added 70
Report presented 139
Consideration of Report postponed . . . . . 208 to 211

LETHBRIDGE, HON'BLE A. S., M.D., C.S.I.—

Financial Statement discussed . . . . . 211 &212
Took his seat as an Additional Member of Council . . . 65

M

Pages.

MACKAY, HON'BLE J. L., C.I.E.—

Financial Statement discussed . . . . . 228 to 233
Indian Coinage and Paper Currency Bill 276
Inland Emigration Act, 1882, Amendment Bill 59
Land Acquisition Act, 1870, Amendment Bill . . . . . 208 to 211
Question asked by—regarding action of Secretary of State in not fixing some minimum for the sale of his Council drafts . . 305
Question asked by—regarding revised rates for deferred telegram . 313
Took his seat as an Additional Member of Council 289

MILLER, HON'BLE SIR A. E., KT., Q.C.—

Bankers' Books Evidence Bill . . . . . 18, 40 & 41
Bill to legalize execution in British India of Capital Sentences passed by British Courts in Foreign Territory . . 4, 61 & 62, 86 & 87
Cutchee Memon Bill 208
Excise Act, 1881, Amendment Bill 291
Indian Tariff Act, 1882, Amendment Bill . . . . . 295 & 296
Inland Emigration Act, 1882, Amendment Bill . . . 59, 153 & 204
Land Acquisition Act, 1870, Amendment Bill 1
Partition Bill . . . . . 3, 74 & 75, 79 & 85
Petit Baronetcy Bill . . . . . 4, 5, 31, 36 to 38 & 88 to 90
Porahat Estate Bill . . . . . 51 & 52
Presidency Small Cause Courts Act, 1882, Amendment Bill . 5, 7 & 112 to 116
Prisoners Act, 1871, Amendment Bill . . . . . 321 to 324
Tributary Mahals of Cuttack Bill . . 294, 299 & 300, 309, 311 & 312

P

PALLI CHENTSAL RAO PANTULU, HON'BLE, C.I.E.—

Financial Statement discussed . . . . . 224 to 228
Inland Emigration Bill 59
Land Acquisition Act, 1870, Amendment Bill 1
Partition Bill 3

PARTITION BILL—

Referred to Select Committee 3
Report presented . . . . . 56 to 59
Report considered 70
Bill passed . . . . . 83 to 86

PETIT BARONETCY BILL—

Motion for leave to introduce 4
Introduced . . . . . *Ib.*
Motion to publish 5
Bill considered 31

Pages.

PETIT BARONETCY BILL—*continued.*

Bill passed 90

PORAHAT ESTATE BILL—

Bill considered . . . . . 51 & 52
Bill passed 52

PRESIDENCY SMALL CAUSE COURTS ACT, 1882, AMENDMENT BILL—

Motion for leave to introduce 5
Introduced 7
Motion to publish . . . . . *ib.*
Motion to postpone Bill being referred to Select Committee . . 112 to 116

PRISONERS ACT, 1871, AMENDMENT BILL—

Motion for leave to introduce 321
Introduced 323
Motion to publish . . . . . *ib.*

PRITCHARD, HON'BLE SIR C. B., K.C.I.E., C.S.I.—

Land Acquisition Act, 1870, Amendment Bill 1
Reply to question put by Hon'ble Mr. Mackay regarding revised rates for deferred telegrams 313

PUBLICATION OF—

Bankers' Books Evidence Bill 18
Code of Civil Procedure and Indian Limitation Act, 1877 . . 93
Code of Criminal Procedure, 1882, and Indian Penal Code, Amendment Bill 303
Excise Act, 1881, Amendment Bill 292
Government Tenants (Punjab) Bill 20
Habitual Offenders Bill 18
Indian Fisheries Bill 318
Indian Ports Act, 1889, Amendment Bill 293
Indian Stamp Act, 1879, Amendment Bill 320
Indian Tariff Act, 1882, Amendment Bill 293
Inland Emigration Act, 1882, Amendment Bill 30
Petit Baronetcy Bill 5
Presidency Small Cause Courts Act, 1882, Amendment Bill . . 7
Prisoners Act, 1871, Amendment Bill 323
Tributary Mahals of Cuttack Bill 300

R

RASH BEHARI GHOSE, HON'BLE DR.—

Code of Civil Procedure and Indian Limitation Act, 1877 . 93

Pages.

RASH BEHARI GHOSE, HON'BLE DR.—*continued.*

Inland Emigration Act, 1882, Amendment Bill . 59, 152, 154, 158 to 163, 181 & 200

Land Acquisition Act, 1870, Amendment Bill 1

Partition Bill . . . . . 3, 56 to 59, 75 to 77, 81 & 83 to 85

Petit Baronetcy Bill . . . . . 31 to 33

S

	Appointed.	Report presented.	Report considered.
SELECT COMMITTEE—			
Bill to legalize execution in British India of Capital Sentences passed by British Courts in Foreign Territory	4	61—62	86
Inland Emigration Bill	59	116	139—206
Land Acquisition Act, 1870, Amendment Bill .	1	48—51 & 139	
Partition Bill	3	56—59	70

STEVENS, HON'BLE C. C.—

Financial Statement discussed . . . . . 212 to 214

Inland Emigration Act, 1882, Amendment Bill . 59, 151 & 152, 177 & 178, 192 to 199, 205 & 206

Took his seat as an Additional Member of Council 1

T

TRIBUTARY MAHALS OF CUTTACK BILL—

Motion for leave to introduce postponed 294

Motion for leave to introduce . . . . . 299 & 300

Introduced 300

Motion to publish . . . . . *ib.*

Date fixed for consideration of Bill 309

Bill considered . . . . . 311 & 312

Amendments proposed and carried 312

Bill passed . . . . . *ib.*

U

UADAI PARTAB SINGH, C.S.I., OF BHINGA. HON'BLE RAJA—

Land Acquisition Act, 1870, Amendment Bill . . . . 1 to 3

W

Pages.

WOODBURN, HON'BLE J., C.S.I.—

Inland Emigration Act, 1882, Amendment Bill . . . . . 150 & 151

Land Acquisition Act, 1870, Amendment Bill . 1, 48 to 51, 70, 139 & 208 to 211

YOUNG, HON'BLE W. MACKWORTH, C.S.I.—

Took his seat as an Additional Member of Council . . . 257

Government of India Central Printing Office.—No. 190 L. D.—18-12-93.—316.—E. H.

BENGAL SECRETARIAT LIBRARY

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vict., cap 67.

The Council met at Government House on Thursday, the 12th January, 1893.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G., G.M.S.I., G.M.I.E., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
The Hon'ble Sir P. P. Hutchins, K.C.S.I.
The Hon'ble Sir D. M. Barbour, K.C.S.I.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. Woodburn, C.S.I.
The Hon'ble Raja Udai Partab Singh, C.S.I., of Bhinga.
The Hon'ble J. L. Mackay, C.I.E.
The Hon'ble Dr. Rash Behari Ghose.
The Hon'ble Palli Chentsal Rao Pantulu, C.I.E.
The Hon'ble G. R. Elsmie, C.S.I.
The Hon'ble Sir G. H. P. Evans, K.C.I.E.
The Hon'ble C. C. Stevens.

NEW MEMBERS.

The Hon'ble SIR GRIFFITH EVANS and the Hon'ble MR. STEVENS took their seats as Additional Members of Council.

LAND ACQUISITION ACT, 1870, AMENDMENT BILL.

The Hon'ble MR. WOODBURN moved that the Bill to amend the Land Acquisition Act, 1870, be referred to a Select Committee consisting of the Hon'ble Sir Philip Hutchins, the Hon'ble Sir Alexander Miller, the Hon'ble Sir Charles Pritchard, the Hon'ble Raja Udai Partab Singh of Bhinga, the Hon'ble Dr. Rash Behari Ghose, the Hon'ble Palli Chentsal Rao Pantulu and the Mover. He said:—

"I may perhaps take the opportunity to say that, speaking for myself, I think the main object which the Mover of the Bill had in view may be met

without very material alteration of the principles and procedure of the existing Act. The chief defect of the present law as explained in the Statement of Objects and Reasons is this. By the law the Collector must refer to the arbitrament of the Judge every case in which the owner of the land he acquires is dissatisfied with the award. And he is also compelled to refer to the Judge every case in which any one of, perhaps, a large number of persons interested in the award has failed to attend before him. It is in evidence that their failure in attendance is occasioned, in the great majority of instances, not by dissatisfaction with the award but by indifference; and the result has undoubtedly been, particularly in the Punjab, that large numbers of people have been subjected to unnecessary inconvenience and expense by the consequent proceedings in the Civil Court. It is possible, perhaps, to remedy this defect without making the considerable change of requiring a dissatisfied owner to institute a formal suit against the Collector of his district, and I shall ask the Select Committee to consider an alternative draft which would make the Collector's award final if it is not objected to within a reasonable time, but which would continue to the Collector his present duty of referring to the Judge every case in which exception is taken to his award."

The Hon'ble THE RAJA OF BHINGA said :—

" While admitting the necessity of dispensing with the services of the assessors, I cannot overlook the objectionable parts of this Bill. It is, however, a matter of great satisfaction to me to find my hon'ble friend Mr. Woodburn proposing such valuable modifications, which, if carried out, are sure to meet the requirements of the case. In the words of a high Government official, the Bill as it stands now cannot help making 'the Collector a Judge in his own cause, throwing the burden of proof on the private owners of property whose rights and interests are assailed.' The same, however, cannot be said of a Judge who tries a case of a similar nature. The argument that the one is no less a Government servant than the other, and, consequently, both equally competent to try such suits, is not quite sound. All Principals and Professors attached to Government educational institutions are Government servants. They are, however, never appointed as the examiners of their own schools or classes. In human life impartiality as well as circumstances have scope for full play. I am one of those who have a great respect for the Collectors, and think that India can never expect to get a better class of officers. But with the best of motives I respectfully submit that they cannot avoid suspicion and mistrust if they are made to try cases under the new law. In comparison with the Presidency and other large towns the interests of the Mufussal are in greater

danger. A Collector might be an entirely new man, placed in temporary charge of a district, or one relying solely in such matters on the reports of the tahsildar or peshkar. In a country like India, under a foreign rule, it is of the utmost importance that the men in authority should be not only honest and impartial, but also, as far as possible, above suspicion. As regards the trouble and expense, I do not think the proposed change would be beneficial, unless the Collector's enquiry is to be of a summary nature—a procedure certainly undesirable. Again, the claimant in a suit of partition is allowed to pay court-fees only on the share claimed, and not on the value of the entire property. In connection with this, the Chief Commissioner of Coorg very justly remarks that 'for instance, the rival claimants to compensation are *A* and *B*. According to the award of the Collector, *A* is entitled to Rs. 100 and *B* to Rs. 200. *A*, however, contends that he is entitled to half the compensation awarded, and he accordingly sues *B* for the balance due to him. According to the draft amendment referred to above, *A* would be required to pay the court-fee on Rs. 300, while it seems more reasonable that he should be required to pay the court-fee on Rs. 50 only, the difference between the amount claimed by him and that awarded by the Collector.' Further, under the Limitation Act, the period assigned for bringing suits regarding lands taken up for public purposes by Government is one year, but according to the amendment it is too short. I would therefore respectfully beg to make two suggestions: (1) should the difference between the Collector's award and the value claimed exceed twenty per cent., the owner be allowed to have resort to the Civil Courts free of institution-fees; (2) the limitation under section 18 be extended to six months in one case, and one year in the other."

The Motion was put and agreed to.

PARTITION BILL.

The Hon'ble DR. RASH BEHARI GHOSE moved that the Bill to amend the Law of Partition be referred to a Select Committee consisting of the Hon'ble Sir Philip Hutchins, the Hon'ble Sir Alexander Miller, the Hon'ble Palli Chentsal Rao Pantulu, the Hon'ble Sir Griffith Evans and the Mover. He said that all that it was necessary for him to state at that stage was that the Bill had been, generally speaking, favourably reported upon by the different Local Governments, as well as by the officers and public associations consulted by them. It had also been approvingly noticed by the Press. At the same time he was bound to say that, while accepting what might be called the principle of the Bill, many of the communications received contained valuable criticisms

on what might be described as the details of the measure. Those criticisms he was sure would receive every attention from the Select Committee to which the Bill was now about to be referred.

The Motion was put and agreed to.

BILL TO LEGALIZE EXECUTION IN BRITISH INDIA OF CAPITAL SENTENCES PASSED BY BRITISH COURTS IN FOREIGN TERRITORY.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill to legalize in certain cases the execution within British India of capital sentences which have been passed by British Courts exercising in or with respect to foreign territory jurisdiction which the Governor General in Council has in such territory be referred to a Select Committee consisting of the Hon'ble Sir Philip Hutchins, the Hon'ble Mr. Elsmie, the Hon'ble Sir Griffith Evans and the Mover. He said:—"The Bill is a very small one, and, as I fancy most of the members know, is merely introduced to remedy the inconvenience discovered in some of the small semi-independent States,—principally in the Bombay Presidency,—where in the few cases in which capital sentences have been passed by British Courts there is no proper machinery for carrying them into execution, and sometimes we have been left to the alternative of a scandal or an irregularity. It is desirable that that alternative should be removed by legalising within British India the execution of such capital sentences. The Bill will probably require some little amendment in its details, and I have no doubt that the Select Committee will be able to deal satisfactorily with them."

The Motion was put and agreed to.

PETIT BARONETCY BILL.

The Hon'ble SIR ALEXANDER MILLER also moved for leave to introduce a Bill for settling Bonds of the Municipal Corporation of the City of Bombay producing an annual income of one lakh and twenty-five thousand rupees and a Mansion-house and hereditaments called "Petit Hall" in the Island of Bombay, the property of Sir Dinshaw Manockjee Petit, Baronet, so as to accompany and support the title and dignity of a Baronet lately conferred by Her Present Majesty Queen Victoria on him for and during the term of his natural life, and from and immediately after his decease to hold to his second son, Framjee Dinshaw Petit, Esquire, and the heirs male of his body lawfully begotten, and in de-

fault of such issue with remainder to the heirs male of the body of the said Sir Dinshaw Manockjee Petit, and for other purposes connected therewith. He said:—" This is the second case which has arisen in which, Her Majesty having conferred a hereditary honour upon a Native of India, the Baronet has been desirous of settling an endowment which will prevent the dignity from falling into poverty or disrepute at any future time. As the law at present stands there are difficulties with regard to perpetuities, and this object can now only be attained by a special Act of the Legislature. Whether a general Act may at any future time be passed that will meet these cases may be matter for consideration, but in the meantime the only way in which sanction can be accorded to the creation of a perpetuity is by a special Act. An Act of this nature was passed in the case of Sir Jamsetjee Jeejeebhoy in 1860, and it is now proposed to follow that precedent in the case of Sir Dinshaw Manockjee Petit."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also introduced the Bill.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Bombay Government Gazette in English and in such other languages as the Local Government thinks fit.

The Motion was put and agreed to.

PRESIDENCY SMALL CAUSE COURTS ACT, 1882, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER also moved for leave to introduce a Bill to amend the Presidency Small Cause Courts Act, 1882. He said:—

"Very considerable complaints have, from time to time, been made of the working of one at least of the Small Cause Courts established by the Act of 1882, and in two or three important particulars it has been found that the Act worked badly, and accordingly, after much consideration, it has been determined to introduce a Bill to amend that Act in three (there are other small amendments with which I need not trouble the Council) important particulars. At present, with the single exception of a rule that the Chief Judge of a Small Cause Court, and at least one-third in number of the Judges, must necessarily have been barristers or advocates, there is no qualification whatever for the office of Judge: though I have no doubt that the Governments which have the

appointment of the Judges to these Courts would always take care to appoint qualified men, there is absolutely nothing in the law as it stands which would prevent two-thirds of the Judgeships of any one of these Courts from being filled up by young gentlemen who had landed in India to join the Indian Civil Service the day before their appointment. We propose to provide for the future, while not altering the qualification of Chief Judge, that no person can be appointed a Small Cause Court Judge who has not secured a standing of five years either as a barrister of England, Ireland or Scotland, or as an advocate, attorney or vakil of a High Court in India, or as a Subordinate Judge. It is scarcely conceivable that any one can be fit for the office who has not satisfied one at least of these three qualifications. We also propose to provide that in the case of a man who has not got five years' standing in any one of such capacities, still if he can make up five years in all amongst his qualifications, that shall be sufficient qualification for him. This will get rid no doubt altogether of the one-third principle, which I may say incidentally was very nearly being found a great difficulty with regard to the new Court in Madras, and, whilst retaining a barrister or advocate as necessary for the Chief Judge, it will require that every one of the other Judges shall be qualified in the manner I have mentioned.

"The second point on which amendment seemed to be imperatively called for was that the rules of procedure in Small Cause Courts were not found to work altogether satisfactorily, and accordingly we now propose to provide that the High Court under whose jurisdiction the particular Small Cause Court may be shall have power to make and alter all such rules of procedure as may be required. We consider that the proper authority to regulate the procedure in the Small Cause Courts is the High Court of the Presidency in which the Small Cause Court is; they will not make any alteration unless it is found desirable, but we propose to put the matter entirely in the hands of the High Court to make any such alteration by rule as they may consider necessary for the good working of the Small Cause Court.

"The third alteration is one on which I myself lay very great stress indeed. As the law stands at present, there is practically no appeal from the decision of a Small Cause Court Judge. You may indeed apply to him for a new trial, or you may move the Court under certain somewhat complicated and onerous conditions to call up the record for revision; but there is nothing in the nature of a direct appeal to any superior authority from the decision of a

Small Cause Court Judge. We propose to alter that,—to get rid of the complicated and onerous regulations which have been established for revision,—by providing that in every case in which the value of a suit exceeds Rs. 1,000 there shall be an appeal to the High Court by either party under exactly the same conditions as if it were an appeal from an original decision of the High Court itself in its original jurisdiction. On the other hand, in order to prevent a complication of appeals, we propose to provide that in the cases in which an appeal lies there should be no power to move the Judge himself for a new trial; that you are not to be entitled to go first to the Judge and see what you can do with him and then appeal when you fail; and that your remedy is to be one, and one only. We consider that in cases of the value of Rs. 1,000 and over the proper appeal is to the High Court.

"These are the only proposals in the Bill which it is necessary to mention. There are some minor details which are requisite for carrying out the three objects which I have mentioned to which I need not here refer."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also introduced the Bill.

The Hon'ble SIR GRIFFITH EVANS craved leave to inquire whether any provision was made in the proposed Bill for the recording of evidence in appealable cases.

The Hon'ble SIR ALEXANDER MILLER said that the Bill provided that in any case in which an appeal would lie the Judge should take a note of the evidence and give the substance of his judgment. That, in fact, was more than had been found necessary in appeals in County Courts in England and less than was commonly done by Judges of their own motion. It was therefore considered that it would be quite sufficient.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Fort St. George Gazette, the Bombay Government Gazette and the Calcutta Gazette in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

HABITUAL OFFENDERS BILL.

The Hon'ble SIR PHILIP HUTCHINS moved for leave to introduce a Bill to provide for the more effectual surveillance and control of habitual offenders and for other purposes. He said :—

"Of the subjects first brought before me when I joined the Government of India, and before your Excellency when you assumed your exalted office, one of the most important was the apparent increase in the number of criminal offences and the growing inability of our police to cope with the criminal classes. The matter was referred to Local Governments and Administrations, and, although it turned out that in most of the provinces crime had not really reached the formidable dimensions which had been supposed, it was nevertheless admitted that the administration of criminal justice was far less effective than it should be in most parts of the country, and various causes were assigned to account for the shortcoming. Most of these causes have been dealt with, and as far as possible remedied, executively. Chief among them were defects in the police force itself. This has now been thoroughly overhauled in almost every province, and measures have been taken, involving considerable expenditure, to improve the personnel of the force generally, and more particularly to secure better and more trustworthy men as investigating officers.

"But another result of our enquiries, and that on which I desire to lay stress in connection with the Bill which I am about to introduce, was to show very clearly that the improvement in communications which has been effected in recent years, chiefly by railways and the telegraph, has greatly facilitated the depredations of professional criminals, and has increased the difficulty experienced by the police in the detection and prevention of certain classes of crime. This difficulty, we believe, arises mainly from the fact that there is no provision of law authorizing the police in this country to keep habitual criminals under surveillance, so as to control and watch over their movements; for, although some sort of police supervision over convicted and suspected persons is undoubtedly exercised in most parts of the country, this is an irregular arrangement and rests on no legal basis.

"Twenty years ago, in 1873, a proposal was submitted to the Government of India that legislation should be undertaken on the model of section 8 of 34 & 35 Vict., c. 112, with a view to the prevention of crime by controlling bad characters. The proposal was not then adopted for two reasons. In the first place, the precedent cited was a novel provision of the English law; it had not

been subjected to the test of experience, and it was thought better to wait for some years until the system had been fully tried. In the second place, the police of the country were also at that time a comparatively young body: they were not considered fit to be entrusted with such large powers of supervision. But the reports which were received by Lord Ripon's Government in 1881 in connection with the amendment of the Criminal Procedure Code, and the more recent reports submitted to us in connection with our late inquiry into the state of crime in the larger provinces in India, have made it clear that many of the authorities most competent to form an opinion on the subject are more than ever convinced that legal powers of surveillance over bad characters are indispensable if the police are to exercise any adequate check over habitual criminals. And, on the other hand, the two chief objections to the enactment of such a measure in India have been removed—the first by the successful manner in which the English Statute has worked, and the second by the fact, to which I have just adverted, that extensive schemes for the re-organisation of the police have already been carried out in many provinces, while others are being matured for improving the condition of the force and raising the standard of intelligence and honesty among its members. Moreover, as some form of surveillance is already carried out in most parts of India, it seems very desirable that it should be placed on a legal footing—that the limits within which it may be properly applied and the persons to be brought under it should, as far as conveniently may be, be declared by the Legislature, and that, as a consequence of such a declaration of what may be done, any excess of those limits or irregular interference with persons who are merely suspected should be redressed.

"With this object a Bill has been prepared to provide for the surveillance and control of habitual offenders and certain cognate matters. It had its origin in a draft Bill forwarded by the Punjab Government in 1889, in continuation of its report on the state of crime in that province. That Bill was forwarded for the opinions of Local Governments and Administrations and the High Courts; and, after a consideration of the replies received, we have modified the draft and put it into the form in which I shall shortly lay it on the table. There is, I think, a general consensus of opinion among the authorities consulted in favour of the principle of the measure, and particularly as to the necessity for more effective regulations for the control of habitual offenders.

"I will now proceed to explain in some detail what it is that we propose to enact. The provisions of the Bill fall roughly under four heads:—

(1) the improvement of the law of security for good behaviour;

(2) the surveillance of persons judicially declared to be habitual offenders;

(3) the modification of the procedure for the trial and adequate punishment of such offenders;

(4) the repression of certain offences against property by the assessment of compensation in the localities where they occur.

"(1) The provisions for the improvement of the law relating to security are contained in sections 2 to 4 of the Bill. The existing law for the prevention of crime by habitual offenders is to be found in Chapter VIII of the Criminal Procedure Code, which authorizes the taking of security for good behaviour from any person who is 'an habitual robber, house-breaker or thief, or an habitual receiver of stolen property knowing the same to be stolen, or who habitually commits extortion, or in order to the committing of extortion habitually puts or attempts to put persons in fear of injury.' By section 505 of the Code of 1872, Magistrates were further empowered to require security from persons who were 'of notoriously bad livelihood,' or 'dangerous characters,' but these words were omitted from the Code of 1882 in consequence of objections that the phraseology was vague, and that it placed in the hands of the police powers which are liable to abuse. It has been represented in many quarters that this omission has deprived the preventive part of the Code of much of its value; and the Local Governments of Bombay and the North-Western Provinces and Oudh, as well as the Chief Commissioner of Burma, recommend that the same or similar words should now be re-enacted. Sir Auckland Colvin has also pointed out that, under the existing law, security cannot be demanded from persons habitually committing such offences as kidnapping or professional poisoning. It is accordingly proposed to re-enact section 110 of the Criminal Procedure Code in a form which will both slightly enlarge and show much more clearly the several classes of persons from whom security may be required. The material changes are three in number: first, by clause (*f*) of the section, the words omitted in 1882 will be restored, but in such a shape as to render them free from the charge of vagueness and less liable to abuse—a man must be of a character so desperate and dangerous as to render it hazardous to the community that he should be at large, without any safeguard, before he can be bound over to good behaviour; secondly, in clause (*d*) mischief has been added to the list of offences the commission of which makes the offender liable to be called upon to furnish security—this addition has been made to meet the case of such offences as habitual cattle-poisoning, which is largely practised in certain parts of the country; thirdly, in pursuance of a

note to section 110, which will be found in Mr. Whitley Stokes' Anglo-Indian Codes, I have inserted a new clause (*c*) to provide for the case of a man who 'habitually protects or harbours thieves or aids in the concealment or disposal of stolen property.'

"Then it is proposed to make surveillance by the police an alternative in certain cases to the requisition of security. Section 3 of the Bill empowers the Magistrate to make an order for police surveillance instead of requiring security for good behaviour. Section 4 permits a person who has been ordered to give security, but has been unable to furnish it, to be kept under surveillance in lieu of being detained in prison. Under section 8 of the Bill such orders for police surveillance will be subject to the same rights of appeal as are allowed by the Code in respect of orders to give security.

"The second main division of the Bill comprises sections 5 to 15, and makes provisions for the surveillance of persons who are 'habitual offenders' within the definition contained in section 5. This definition is framed on the principle embodied in 34 & 35 Vict., c. 112, and indeed the whole of this part of the Bill is based upon section 8 of that Statute. For the convenience of any one who may not have the Statute at hand to refer to, I will quote the entire section :—

'Where any person is convicted on indictment of a crime, and a previous conviction of a crime is proved against him, the Court having cognizance of such indictment may, in addition to any other punishment which it may award to him, direct that he is to be subject to the supervision of the police for a period of seven years, or such less period as the Court may direct, commencing immediately after the expiration of the sentence passed on him for the last of such crimes.

'Every person subject to the supervision of the police who is at large in Great Britain or Ireland shall notify the place of his residence to the chief officer of police of the district in which his residence is situated, and shall, whenever he changes such residence within the same police district, notify such change to the chief officer of police of that district, and whenever he changes his residence from one police district to another shall notify such change of residence to the chief officer of police of the police district which he is leaving and to the chief officer of police of the police district into which he goes to reside; moreover, every person subject to the supervision of the police, if a male, shall once in each month report himself at such time as may be prescribed by the chief officer of police of the district in which such holder may be, either to such chief officer himself, or to such other person as that officer may direct, and such report may, according as such chief officer directs, be required to be made personally or by letter.

'If any person subject to the supervision of the police who is at large in Great Britain or Ireland remains in any place for forty-eight hours without notifying the place of his

residence to the chief officer of police of the district in which such place is situated, or fails to comply with the requisitions of this section on the occasion of any change of residence, or with the requisitions of this section as to reporting himself once in each month, he shall in every such case, unless he proves to the satisfaction of the Court before whom he is tried that he did his best to act in conformity with the law, be guilty of an offence against this Act, and upon conviction thereof he shall be subject to be imprisoned, with or without hard labour, for any period not exceeding one year.'

" Following these lines, section 5 of the Bill requires two convictions under Chapter XII or XVIII of the Indian Penal Code, and it will further be necessary before a person can be declared a 'habitual offender' that the Court or Magistrate shall be satisfied on the evidence, of which the convictions will only be part, that the accused habitually commits crime or depends on crime as a means of livelihood. The maximum period for which any person may be ordered to be kept under surveillance in such cases is, in the English Act, seven years from the date of the expiration of the substantive sentence; and such orders will be subject to the same rights of appeal and revision as if they formed part of the substantive sentence to which they are attached. Presidency Magistrates and District and Sub-divisional Magistrates are empowered, on the application of the person concerned, to accept security in lieu of surveillance, and also to release him from surveillance when this can safely be done. The details of the rules as to the supervision of persons under surveillance must necessarily differ to some extent according to the local circumstances and requirements of each province. Accordingly, it is not proposed to include any general rules in the Bill; each Local Government will have power to frame such rules for its own territories; but, in order to secure some uniformity of principle, the lines on which such rules should proceed are generally indicated in section 12, and the rules will require the previous sanction of the Government of India. Finally, section 15 extends the obligation which section 45 of the Code imposes upon village headmen, land-holders and others, to report the movements of bad characters, so as to include reports as to the movements of persons ordered to be kept under surveillance.

" The necessity for some such provisions as these was strongly pressed on us by Sir James Lyall, lately the Lieutenant-Governor of the Punjab, than whom no one had a more intimate acquaintance with the needs of that province. He urged that the provisions of the Code regarding the taking of security from bad characters (the only preventive measure recognized by the law) had proved an inefficient substitute for a system of authorized surveillance, and that it was necessary that they should be supplemented by an enactment legalizing the

surveillance of habitual offenders. The improvement in communications effected in late years, he said, had not only encouraged and facilitated the operations of those classes of criminals who are in the habit of leaving their homes to commit crimes at a distance and returning with their plunder, but had also greatly diminished the deterrent effect of an order to furnish security for good behaviour. It will, however, be better that I should quote his exact words, or those used by his Secretary under his instructions:—

'The development of railways, and the increased means of procuring employment at a distance from their homes, has rendered the loose characters more able and willing to leave their villages and take up their abodes elsewhere. The deterrent effect of being placed on security has therefore been much impaired. The offender is not bound thereby to remain in any particular locality, and neither by inclination nor by the difficulty of communications is he precluded from seeking new scenes wherein to indulge his criminal propensities. The result is that old offenders on security resume their careers of crime in places distant from their homes—perhaps in other provinces—where their antecedents are unknown, and where, even if they are convicted, a light sentence alone may be meted out to them. Again, security for good behaviour cannot be taken at the time of conviction separate proceedings have to be instituted subsequently. District Magistrates in the Punjab have multifarious duties and are hard-worked, and the result is that the power is only used intermittently.

'It is essential,' in Sir James Lyall's opinion, 'that the police and Magistrates should have the means of knowing how certain classes of criminals are conducting themselves after their release from jail, and this end can only be attained effectively by the establishment of a system of surveillance which shall disclose their movements to the officers responsible for the administration of the criminal law.'

"It is to those proposals of the Punjab Government that this Bill endeavours to give effect, with such modifications as appeared desirable, having regard to the replies received from other Local Governments and the High Court of Calcutta. The only persons who can be subjected to surveillance are persons of so bad a character that under the existing law they can be required to furnish security, or persons who have been judicially declared to be habitual offenders.

"The Governments of Bombay and Bengal, however, would go beyond these proposals and legalize surveillance over unconvicted persons who are merely suspected to be bad characters. The Government of Bombay report that the most experienced district officers believe it to be impossible to secure any effective control of habitual offenders without legalizing the roll-call system for the surveillance of unconvicted bad characters, and these will not be reached by the Bill though they form the classes from which the habitual offenders in the jails are recruited. And my hon'ble friend the

Lieutenant-Governor of Bengal would like to frame rules for two classes of bad characters—convicted 'habitual offenders' and unconvicted 'suspected persons.' The latter class would be subject to less stringent regulations than 'habitual offenders,' but rules should, he thinks, be made for their registration, and for domiciliary visits, searching of their houses and information as to their movements. These remarks come from eminent authorities and are entitled to the highest consideration, but, as at present advised, the Government of India are even more impressed with the obvious objections to the maintenance of anything like *public* registers of mere suspects or the establishment of a system of legalized supervision over unconvicted persons. The Government are unwilling to go beyond the principle of the English Statute, which only permits interference in the case of convicted criminals. The police in India, as in all other countries, must of course maintain *secret* registers of suspects, and keep a watch over the movements of persons supposed to be bad characters, but we are not prepared to give them power to interfere with or harass such persons, as we fear that such power would be very constantly and grievously abused.

"The next part of the Bill comprises three sections, 16 to 18, and has been described by me as modifying the procedure for the trial and adequate punishment of habitual offenders. The principal provision under this head is contained in section 16, and consists in the amendment of section 348 of the Criminal Procedure Code upon the lines of the section which immediately follows it. The present section 348 provides that when a person who has been convicted of an offence punishable under Chapter XII or XVII of the Penal Code (offences relating to coinage, the stamp law and property) with imprisonment for a term of three years or upwards is again accused of any such offence, he shall ordinarily, if the Magistrate before whom he is accused considers him to be a habitual offender, be committed to the Court of Session. The result is that almost every petty case in which the accused is an old offender has to be sent up for trial at the sessions, not because of any inherent difficulty or importance of the offence itself, but simply because, in view of the bad character of the offender, the Magistrate cannot inflict on him an adequate punishment. But section 349, which, as I have said, immediately follows, proceeds on very different lines: it provides that, when an inferior Magistrate has found a person guilty of an offence over which he has jurisdiction, he may, if he considers such punishment as he can himself inflict to be inadequate, send up the prisoner to his superior with his recommendation for an enhanced sentence.

"Many years ago, in 1885, when the Criminal Procedure Code was last under revision, the High Court of Madras suggested that the procedure as between Magistrate and Sessions Court in section 348 should be assimilated to that laid down in section 349 as between inferior and superior Magistrates. But here again I should prefer to quote the Court's own words and the reasons which it gave for its proposal. The Registrar wrote:—

'With regard to the amendment in procedure which the High Court desires to see adopted, I am to say that under section 349, Criminal Procedure Code, a Magistrate of the second or third class can now convict of an offence cognizable by himself, even though the offender seems to deserve a more severe punishment than he is empowered to inflict, and may refer the case to the District or Divisional Magistrate to whom he is subordinate to pass sentence. All the reasons which induced the Legislature to make this provision apply, the High Court considers, with even greater force to those cases which become cognizable by the Court of Session, merely because the offender has been previously convicted and seems to be an habitual criminal. The sessions divisions, I am to point out, are in this presidency very large, and it entails a great hardship on the witnesses, in cases of petty theft and the like, that they should have to attend the sessions simply because the accused is an old offender. The Court believes that this liability often leads to a failure of justice and the illegal compounding of offences.'

"Precisely similar reasons have been advanced by the Chief Commissioner of Burma also, and he has added that Magistrates themselves are disinclined to put the Sessions Court to the trouble of trying cases of a petty character, merely because a long sentence is demanded owing to the antecedents of the accused. The result of course is that Magistrates too often dispose of such cases themselves, notwithstanding their inability to pass a sufficiently deterrent sentence.

"The arguments in support of this proposal seem to the Government of India to be entitled to much weight. The proposal also commended itself to the Select Committee before whom it came originally, and I understand that the only reason why it was not incorporated in the Bill which became Act X of 1886 was that this would have necessitated a republication of that Bill and its postponement for nearly a twelvemonth. The cases contemplated are, as a rule, in no way complicated; the evidence is generally of a simple character, and a committal to sessions is necessary merely because it is beyond the power of a Magistrate to pass an adequate sentence. The existing procedure causes great delay and inconvenience, and exposes the parties and witnesses to the trouble of attendance in Court on two occasions. Under the revised section they will be relieved from the second attendance unless the Sessions Judge finds some defect in the proceedings, or sees reason to doubt the correctness of the convic-

tion, in which case he will recall and re-examine such of the parties or witnesses as he may think fit, or do whatever else may be necessary to ensure justice being done.

"It has been suggested by the High Court of Calcutta as a preferable course that such cases should be tried by the District Magistrate, and that he should be empowered under section 30 or section 34 of the Code to pass adequate sentences. There are two objections to this alternative. I think it is undesirable to give such high powers to Magistrates in settled districts, and it seems much better that cases of this description should go before a purely judicial officer. Moreover, I apprehend that it would not meet the difficulties which led the Madras Judges to propose the alteration of the law. Their main object was to save witnesses from being brought from great distances into head-quarters, and from the temptation to hush up cases in order to save themselves such hardship and inconvenience. But the District Magistrate is himself at head-quarters; or when he is not at head-quarters he will be on circuit, and this would entail on the witnesses a still further journey in search of him. Moreover, our district officers are already overworked in many places, and could not undertake the heavy additional duty of trying all the cases now in question. The opportunity, however, has been taken by section 17 of the Bill so to modify section 349 of the Criminal Procedure Code as to permit such District Magistrates as have been invested with powers under section 30 or 40 of the Code to sentence up to the limit of their powers on a reference by Subordinate Magistrates. And, following the same principle, it is proposed by section 18 to give the High Court a wider discretion as to the enhancement of sentences which come before them on revision. At present, in a case which has been tried by a Magistrate, even a High Court cannot inflict a heavier punishment than two years' imprisonment, however inadequate such a sentence may be to the gravity of the offence.

"I now come to the last section of the Bill, which is of quite an exceptional character and is only to be put in force in special localities and by a special notification. It is designed for the repression of certain offences against property in cases in which they can be traced to a particular locality, but the offenders cannot be identified owing to a combination of the inhabitants to withhold information which would lead to their detection. In such cases the Magistrate will be empowered, after due inquiry and subject to confirmation by the Commissioner, to assess compensation on the residents of the locality generally, excluding any persons or classes of persons whom he finds to have been innocent of

complicity with the offence. This provision is also taken from the same draft Bill sent up by the Punjab Government. In submitting his proposals the Lieutenant-Governor pleaded earnestly for legislation on these lines to meet the numerous cases of cattle-poisoning and incendiarism in which the offenders could not be traced. After pointing out that the number of cases of serious mischief annually reported in the Punjab had risen considerably in late years, he added:—

'This matter engaged the attention of the Commissioner of the Rawalpindi Division so long ago as 1883, in which year he advocated the expediency of enacting that, in the case of persistent want of detection of the crimes of cattle-poisoning and rick-burning, the village or patwari-circle where such undetected crimes had been committed should be ordered to pay the value of the property destroyed. * * * * * Offences of this nature are very rife in certain parts of the Punjab, while the detection of them is most difficult, not only because it is not easy to produce satisfactory evidence in Court of a crime which can be committed by one person on a dark night, but also because, although the perpetrator is often known to the villagers, no one dares to come forward and give evidence lest a similar fate befall his own property.'

"The need for such legislation does not seem to be anywhere so strong as in the Punjab; but nevertheless it appears expedient to take power to recover compensation in this manner, and that not only in cases of mischief but also in cases of dacoity and cattle-lifting, which frequently, and specially in border districts, partake of the nature of clan offences. As I have already stated, the section can only be put into force under exceptional circumstances and in particular tracts where the crimes mentioned prevail to a serious extent. There must also be a combination of a clan or other large section of the inhabitants to screen those who commit such crimes. And in no case can the section be applied to any locality without the express previous sanction of the Governor General in Council.

"As precedents for such legislation I may refer to section 37 of Bombay Regulation XII of 1827, and to the provisions of the Police Acts, which sanction the quartering of additional or punitive police at the charge of the inhabitants in disturbed or dangerous localities. I understand too that Statutes providing for the levy of compensation in similar cases have been passed for Ireland, and that their working has been attended with good results."

The Motion was put and agreed to.

The Hon'ble SIR PHILIP HUTCHINS also introduced the Bill.

The Hon'ble SIR PHILIP HUTCHINS also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

BANKERS' BOOKS EVIDENCE BILL.

The Hon'ble SIR ALEXANDER MILLER moved for leave to introduce a Bill to extend the provisions of the Bankers' Books Evidence Act, 1891, to the Books of Post Offices carrying on Savings Bank or Money Order Business. He said :—" When the Bankers' Books Evidence Bill was before the Select Committee in 1891, the Committee were unanimously of opinion that the books of post offices carrying on this business were public documents and that they came under the provisions of the Evidence Act which applies to public documents, and on that ground, and on that ground alone, they were not expressly mentioned in the Bill which has become the Bankers' Books Evidence Act. However, the Director General of the Post Office was not satisfied that the view taken by the Select Committee on that occasion was right, and he referred the question to a gentleman of considerable eminence in the legal profession in this country, who has expressed a direct opinion, without giving any reasons whatever for it, that that view was wrong. I am not inclined to enter into a discussion either with Mr. Fanshawe, or with the eminent counsel who has advised him, and I think that on the whole, without for a moment admitting that the view taken by the Select Committee in 1891 was erroneous, it is better to get rid of the question by introducing a short Bill to include expressly the words which Mr. Fanshawe desires and which he wishes to be embodied in the Act. The object of the Bill which it is now proposed to introduce is to effect that purpose."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also introduced the Bill.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

GOVERNMENT TENANTS (PUNJAB) BILL.

The Hon'ble MR. ELSMIE moved for leave to introduce a Bill to provide for the grant of Special Tenancies in certain Government lands in the Punjab. He said:—"Many thousands of acres of Government land, commanded by the new Chenab Canal, are now being allotted to peasant cultivators gathered from various parts of the Punjab, and in future years, as irrigation schemes are further developed, the work of colonization will, it is hoped, be greatly extended. Hitherto, the grant of waste lands to cultivators has generally been made by written leases often involving formal registration. This system has been found to be inconvenient and unsuitable to the class of men who come in as settlers. The late Colonel Wace, my predecessor in the office of Financial Commissioner in the Punjab, expressed the opinion, some years ago, that the conditions of canal tenancies should be carefully defined, that registers of tenures should be opened, and that settlers should take their holdings by entries in those registers, such entries to be evidence of the nature of the tenancies. The Local Government and the Government of India have adopted Colonel Wace's suggestion, and the object of the present Bill is to give legal effect to it, opportunity being taken at the same time to provide for one or two other matters, such as the conditions under which a tenant may transfer his rights, and the means by which sums due to Government from a tenant in respect of his tenancy may be recovered. Sections 4, 5, 6 and 7 of the Bill contain provisions enabling the Government to lay down the conditions under which it may be willing to grant to settlers lands situated on canal tracts, and prescribing the procedure under which, by certain duly signed entries in registers and without any further formality, a tenancy on those conditions will be created in favour of the settlers. The effect of these sections will be somewhat analogous to that of section 111 of the general Punjab Tenancy Act, No. XVI of 1887, which provides that the entry of an agreement by a revenue-officer in a record-of-rights or an annual record shall have the force of a personally executed agreement between landlord and tenant. Section 8 of the present Bill corresponds for the most part to section 56 of the Punjab Tenancy Act. It is intended to prevent the voluntary transfer or compulsory sale of the rights of a tenant without the sanction of his landlord, *i.e.*, the Government; the actual duty of giving or withholding sanction being delegated to the Financial Commissioner. In conclusion I have only to say that, as the proposed law will not affect the rights of Government or private persons without their consent, there seems to be no reason why the wish of the Local Government should not be complied with, *viz.*, that the Bill should be passed at

an early date so as to facilitate the location of tenants on lands which are now ready for cultivation."

The Motion was put and agreed to.

The Hon'ble MR. ELSMIE also introduced the Bill.

The Hon'ble MR. ELSMIE also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Punjab Government Gazette in English and in such other languages as the Local Government thinks fit.

The Motion was put and agreed to.

INLAND EMIGRATION ACT, 1882, AMENDMENT BILL.

The Hon'ble SIR PHILIP HUTCHINS moved for leave to introduce a Bill to amend the Inland Emigration Act, 1882. He said:—

"Most of the Hon'ble Members of Council are aware that Act I of 1882 is only the last of a series of laws framed for regulating the system of emigration to Assam, and for the control of labour on the tea-gardens of that province. The first of the series was Bengal Act III of 1863, which dealt only with the conditions under which emigration should be carried on, leaving the relations of employers and labourers to be governed by the ordinary law. This state of things was found unsatisfactory for sanitary and other reasons, and in 1865 it became necessary, in the interests of the labourers as well as of the employers, to pass an Act [VI (B. C.) of 1865] establishing what is substantially the present system of officially controlled labour in Assam. The subsequent Acts [II (B. C.) of 1870 and VII (B. C.) of 1873] combined, with improvements, the provisions of the Acts of 1863 and 1865, and each was a complete labour and emigration law. In 1880 and 1881, proposals for the amendment of the Act of 1873 were carefully considered by the Government of India, in communication with the Bengal Government and the Chief Commissioner of Assam, and, as the result, a Commission was appointed which drew up the Bill subsequently passed as Act I of 1882. As this Bill affected provinces other than Bengal (Assam having itself become a separate province in 1874), it was passed in the Council of the Governor General and not in the Bengal Council.

"The labour system then established was based on the fact that the employer incurs heavy expenditure in importing emigrant labourers to Assam, and

in making sanitary, medical and other arrangements on the garden for their health and comfort, while no civil suit would give him an adequate remedy against persons of the classes to which these labourers belong. The Act accordingly laid down a system of contracts under which both the employer and the labourer are bound under criminal penalties to fulfil their respective obligations. On the one hand, certain disciplinary powers are given to the employer, and, on the other, ample powers of inspection and control are retained in the hands of Government. The system, in short, gives to the employer the penal contract as security for his outlay, while it ensures to the labourer complete protection by Government.

"And Act I of 1882 made important changes in the system of emigration no less than in the system of labour; it permitted free emigraton—a subject to which I shall have to refer at greater length later on; it established local contracts which might be entered into within the labour-districts, either by newly arrived immigrants or by resident coolies; and it raised the maximum period of contract under the special law from three to five years.

"On the Act being reported to the Secretary of State, he took exception to this extension of the maximum period of contract, and, having regard to certain matters, chiefly the reported unhealthiness of parts of the Assam Province, he asked for a special report after three years, with a view to the consideration of the possibility of dispensing with exceptional legislation regarding labour-contracts in the tea-districts. This report was submitted in 1886, and in reply, while laying down the policy that such exceptional legislation was only temporary and must not be maintained longer than is absolutely necessary in the interests of both the classes concerned, the Secretary of State agreed with the Government of India that the time had not yet arrived when penal contracts could safely be abandoned. At the same time he desired that the working of the Act should be narrowly watched, and a further special report submitted after another three years.

"As the time for the preparation of the second special report was approaching, the Bengal Government brought to notice certain serious evils in the system of what is called 'free' emigration; that is to say, emigration conducted outside the Act, where the labourers go up to the labour-districts as 'free labourers,' not yet under any contract. The evils complained of were, first, the prevalence of abuses and malpractices committed by professional recruiters working under the 'free' system without a license. And, secondly, the extremely unsatisfactory conditions as to sanitation under which the emigrants

travelled from their homes in Bengal to the labour-districts. A serious outbreak of cholera occurred along the emigrant routes in 1887-88, and to prevent the recurrence of such evils the Government of India sanctioned the enactment of the Bengal Sanitary Act, I (B. C.) of 1889. This Act empowers the Bengal Government to prescribe routes and halting-places for free emigrants, and to frame rules for their health and comfort, as well as for their medical examination and inspection in transit.

"Thorough enquiry was then made both in Bengal and Assam into the whole subject of coolie emigration, and into the conditions of labour on the tea-plantations. The question has for a long time been under the consideration of the Government of India, in communication with the two Local Governments concerned, and the amendments in the law which have now been formulated are embodied in the Bill which I am about to introduce, and have received the general sanction of the Secretary of State.

"The result of this protracted investigation has been not only to show that the continuance of the labour system established in 1882 is essential for the well-being of the tea industry, which has done so much towards colonizing and opening out the rising Province of Assam, and in the prosperity of which the Government of India and all of us have a great and natural interest, but also to bear out the opinion, expressed again and again by successive Chief Commissioners and other impartial observers, that the condition of the labourers on tea-gardens is far superior to that of the masses in the districts from which they emigrate. It has also been made clear that the time has not yet come when labourers can be left to emigrate of their own accord and at their own charges; that without the security of the present system employers could not risk large expenditure in assisting them to emigrate: and that therefore the continuance of the system established in 1882 is still required as a means towards drawing off the surplus population of the recruiting areas and opening out the sparsely peopled districts of Assam. The system has worked eminently to the advantage of the emigrants and in a manner on the whole creditable to the body of planters; and the Government of India, after prolonged and anxious consideration, have come to the conclusion that there are only two serious evils which have to be remedied. These are, first, abuses and malpractices in recruitment, and, secondly, the high rate of sickness and mortality on the gardens, chiefly among newly arrived emigrants.

"I have gone into the history of the matter at this length in order that the objects with which the Government of India are introducing this amending Bill

may be easily apprehended. Our first and foremost object is to provide all practicable safeguards for the detection and prevention of malpractices in recruitment; secondly, we think it necessary to give the Chief Commissioner and his local officers complete powers to enforce proper sanitary measures on tea-estates, and to cancel the obligation of labourers to work or remain on unhealthy gardens. As I stated in some instructions recently issued to the Chief Commissioner of Assam, 'unhealthy gardens require to be urgently dealt with, and employers must clearly understand that failure to preserve their labourers in health will disentitle them to all the benefits of the Act.' In the third place, although we are convinced that the maintenance of the present contract system is still essential in the interests of good administration and of all the classes concerned, we think it possible to make some slight advance towards a system of free labour, and to restrict to some extent the operation of the penal contracts. These then are the three main objects which we have in view, and I will now proceed to explain how the Bill deals with them respectively.

"Sections 11, 12, 23, 25 and 27 of the Bill contain provisions directed against abuses in recruitment. It will be in the recollection of the Council that the question of these abuses attracted considerable public attention four or five years ago. There is no doubt that under the name of free emigration things had been allowed to get into a somewhat lax state in the recruiting districts. The class of arkatis—unlicensed professional recruiters—had become rampant, and the executive had failed to fully utilize its legal powers for their control. Frequent complaints were made of labourers, and even large batches of labourers, being enticed away or fraudulently induced to proceed to Assam; and, indeed, it was alleged in some cases that large gangs had been forcibly taken there against their will. I do not doubt that in some cases some slight amount of force had been used in the recruiting districts, but I have been unable to find any well substantiated case, and I cannot bring myself to believe that any case occurred in which any emigrant, and much less any large body of emigrants, had been forced to go against their will as far as Assam. At all events, after full deliberation, we arrived at the conclusion that the abuses in recruitment had been much exaggerated, both as to their character and prevalence; that recruitment by violence could be readily and adequately prevented by the police or punished by the Magistrate under the ordinary law; and that the only forms of abuses requiring anything like special treatment were (1) recruitment by misrepresenting the advantages of emigration to Assam, and (2) the voluntary resort to emigration by women and young people with a view to escape, for some reason or

other, from their family connections. Even these abuses must be inseparable from any system of emigration on a large scale; but, so far as they are aggravated by the evil advice and interference of arkatis, we agreed with the Bengal Government that the strongest measures for their suppression would be justified.

"But the remedies for these evils, proposed by the Bengal Government, were a reversion to the system of officially controlled emigration which was in force under the earlier Labour Acts, the abolition of the present system of placing emigrants under contract at Dhubri, and the restriction of local contracts to emigrants proved to have lived at least two years in Assam. The essential part of this scheme was that every emigrant with whom it was proposed to execute any contract under the Act should be registered by a public officer at some place in the recruiting districts before proceeding to Assam.

"The reasons which led the Government of India to reject this proposal have been fully stated in the published correspondence. Briefly summed up, they are that a system of initial registration would be expensive, vexatious and altogether alien to the principle of free emigration, which for the last twenty years we have sought to encourage; that there would be serious difficulties in discriminating between emigrants who had been two years in Assam and those who had not; and lastly, and to my mind this by itself was sufficiently conclusive, that initial registration would be an ineffective remedy against those abuses which really prevailed, and which alone called for special measures of repression—against those cases in which the labourer, though under the influence of enticement or misrepresentation, is nevertheless a willing emigrant at the time of registration and himself desirous of emigrating.

"The measures by which the Government of India preferred to combat these malpractices were (1) that more energetic executive action should be taken in the recruiting districts; (2) that constant and vigorous precautions should be adopted along the line of march to the labour-districts; (3) that the inspection system in Assam should be strengthened, and more complete remedies applied whenever emigrants were found to have been taken up to Assam wrongfully.

"Some action has already been taken under each of these heads. It will be supplemented by the provisions of this Bill. The first and second heads chiefly concern the Bengal Government. I have already mentioned that in 1889 a Sanitary Act was passed, authorizing the Local Government to make rules for the sanitary regulation of the journey of free emigrants to Assam. By enabling

the Government to prescribe routes and halting-places for free emigrants, and to frame rules for their examination and inspection by medical and executive officers during their journey, this Act has materially fortified the hands of the local authorities in detecting and preventing malpractices in recruitment. Further, a special police-officer was for some years engaged in inquiring into offences of this character, and an attitude of vigilance generally was enjoined on district officers. The result is that such malpractices have now been reduced within very narrow limits. His Honour the Lieutenant-Governor has reported that altogether, during the year 1891, 161 complaints in connection with emigration were made in the Bhagulpore and Chota Nagpore Divisions, which are the principal recruiting grounds; but in 146 of these cases the coolie emigrants themselves were the *accused* persons, the alleged wrong-doers, and it was only in 13 cases that they were the accusers or alleged themselves to have been injured. In view of these facts my hon'ble friend the Lieutenant-Governor has decided that the deputation of a special police-officer is no longer necessary, but he will insist on the present attitude of vigilance being maintained by district officers, and he has under consideration the revision of the rules under the Act, with the special object of facilitating the prevention of abuses.

"Turning now to Assam, emigrants to the districts of the Assam Valley travel from Dhubri as Act-labourers, and very complete and elaborate arrangements are already in force for their supervision in transit. To Sylhet and Cachar labourers travel chiefly as free emigrants. The Bengal Act of 1892 has been extended to those districts, rules have been framed under it and the arrangements for controlling free emigrants in transit are very similar to those made in Bengal. Moreover, the present Bill will supply several defects in the arrangements authorized by the existing law. The system of executing contracts at Dhubri is popular with the emigrants themselves, but it was hardly contemplated by the framers of Act I. It will now be placed on a legal footing. The powers of inspecting officers have been greatly strengthened by the Bill. Power has been given to the Chief Commissioner to cancel contracts in cases where there is reason to believe that a labourer has been illegally or fraudulently recruited, and complete arrangements have been made for repatriating to their native districts at the cost of the employer of any emigrants who may have been wrongfully taken up to Assam. In future the check over malpractices in recruitment will be as complete as it is possible to make it, and I venture to say that there need no longer be any apprehension on the part of the public in this respect. What was wanted primarily was not to revert to the antiquated and vexatious system

of twenty years ago, but simply more vigorous executive action. In so far as the law was wanting, the defects will now be supplied.

"The prevention of malpractices in recruitment being thus proivded for, the next point was to devise practicable remedies for the two evils which we found to exist in the labour system in Assam, *viz.*, (1) insufficient inspection, especially sanitary inspection; and (2) the high death-rate on tea-gardens. The first of these defects is one which can be met by executive action, and in a recent letter, which has been already made public, the Chief Commissioner has worked out an excellent and well-considered system of inspection, the principal feature of which is that the bulk of the inspection, and the responsibility for the sanitary condition of tea-gardens, will fall on the Civil Surgeon of the district.

"The provisions of the Act which enable the Administration to bring pressure to bear on the owners of unhealthy gardens, in which the death-rate is high, are contained in sections 128 to 133 of the Act. A special chapter is devoted to unhealthy gardens in the annual labour report, in which the measures taken to enforce sanitary inspection are described at length. The law empowers the authorities, if an estate appears to be unfit for the residence of labourers by reason of its general unhealthiness or of a high mortality, either to convene a committee to hold a sort of inquest on the garden or to make an inquiry through the chief medical officer of the district. In either case, if the estate is found to be really unfit for the residence of labourers, the authorities are empowered to cancel their obligation to labour on it. It must be admitted that the power to cancel the contracts of labourers on unhealthy gardens, or, as it is called, to close the garden to Act-labourers or to any particular class of Act-labourers, had not been exercised to the extent it might, and even should, have been; we have, however, taken measures to remedy this, and will insist on these provisions being more vigorously worked in future. Sections 15 to 20 of the Bill amend the sections in question by conferring more complete power on the Local Government, and district officers to hold the requisite inquiry and to close a garden to Act-labour.

"It is often urged that the high death-rate on tea-estates, which without doubt is, as a matter of fact, almost entirely confined to newly arrived immigrants who have been less than two years in the Assam Province, is due to the fact that coolies of inferior physique, or as they are called 'bad batches,' unfit to stand the Assam climate and garden-work, are sent up by contractors and agents. As the law at present stands, a medical examination to test a labourer's

fitness to reside and labour in Assam is not enforced, and in the case of coolies recruited by contractors not even recognised. In the case of sirdari coolies the Act provides that, if an employer requires such a certificate, the registering-officer shall not permit the labourer to execute his contract until the certificate has been produced. Section 9 of the Bill makes a similar provision in the case of contractors' coolies. It will thus, in future, be open to an employer to satisfy himself as to the physical condition of a coolie before he finally contracts with him, and to exclude 'bad batches' and labourers of inferior physique; but, whether he avails himself of this provision or not, he will be held responsible for the results, and the coercive provisions of the Act will be put in force rigorously against him.

"The late Mr. Quinton recommended that medical examination with a view to ascertain a labourer's fitness to labour in the labour-districts should be made compulsory in the case of contractors' coolies; but we have not been able to accept this suggestion. Under the earlier Acts the system of compulsory medical examination was in force, but in 1882 it was found necessary to place the responsibility for the physical fitness of the labourer absolutely on the employers. The system of Government responsibility was abandoned, partly as impossible under a system of free emigration, but chiefly because even under a system of officially controlled emigration it had been found to be unworkable. Even under that system, complaints as to new labourers being physically unfit were by no means uncommon, and there were difficulties as regards the identification of the coolies—excuses as to their being changed *en route*, or having left in sound health and fallen ill in Assam, being generally made with the result that reference to the emigration authorities in Bengal were almost always inconclusive in showing where the fault lay. Moreover, as free emigration has now become firmly established, it is impossible any longer for the Government to undertake responsibility for the medical examination of the coolies; for there would be no means of preventing a medically rejected coolie, if he so wished and if the employer agreed, from going up to the garden as a free labourer and entering into a local contract there. Indeed, this often happens in the case of persons who, though themselves unfit to labour on a tea-garden, accompany their friends and relations to the labour-districts.

"I come now to the third group of amendments, those undertaken with a view to restrict the penal contract system, as far as this can safely be done consistently with the encouragement of emigration and the well-being of the tea industry. It must be clearly understood that in proposing these changes no reflec-

tion is cast on persons connected with the tea industry. We are simply carrying out our declared and consistent policy of gradually restricting the scope of Government control over the emigration and labour system. The Government of India gladly acknowledge the just and considerate treatment which, as reported by successive Chief Commissioners, the labourers have, with rare exceptions, received from planters as a body; but we have always held that exceptional legislation in respect of labour-contracts on tea-gardens can only have a temporary application, and opportunity must be taken from time to time to prepare the way for its abandonment. In accordance with this policy the decision of the Government of India on the entire labour question has proceeded on two principles: (1) that a labour system based on contracts on the lines sanctioned by Act I of 1882, though necessary under existing circumstances in Assam, as well as in other parts of Her Majesty's dominions outside India, where the conditions of labour are similar, such as the Straits, Ceylon and other colonies, is not one which should be permanently maintained; (2) that its abandonment should be effected, not by any premature or sudden dislocation of existing arrangements, but by facilitating and encouraging the use of such methods as will lead to, or prepare the way for, the gradual withdrawal of Government interference in contracts between employers and labourers. The Legislature has recognised since 1873 that the development of free emigration is the method best calculated to lead to the desired result, and for this reason we have always been anxious to encourage emigration conducted outside the legal trammels of the Act. A system of free or non-Act recruitment was for the first time sanctioned by the Bengal Act of that year in the hope that it would gradually lead to a system of free or non-Act labour, but owing to certain defects in the Act it failed to give the desired stimulus to free emigration. These defects were more or less remedied by the Act of 1882. Since then, *pari passu* with, and in consequence of, the development of free recruitment there has been a gradual tendency towards the abandonment, through natural disuse, of those parts of the labour system which it is desired gradually to abolish. Considerable progress in the direction of the establishment of free labour has already been made in the Surma Valley. In the Assam Valley Districts the progress has been less, and only the earlier stages of the development have been reached in the expansion of privately assisted emigration under the system of Dhubri contracts. In accordance with the principles which I have just stated, we have determined to maintain (with improvements of detail) the present system of Dhubri contracts, as necessary for the Assam Valley in this intermediate stage of development; but all our other amendments of Act I are directed to facilitat-

ing the disuse or abolition of the system of penal contracts on which it rests. I have already referred to free emigration in connection with the Bengal Government's proposal for compulsory initial registration, and, as no change is proposed in this respect, all I need say here is that we think it most important that free emigration should be maintained, subject to the provision of proper safeguards for the prevention of abuse in recruitment and for the sanitary control of the journeys of free emigrants. But with respect to the labour system the time seems to have come when some curtailment of penal contracts may safely be made; with this view we proposed to the Chief Commissioner that the maximum term of first agreements should be reduced from five to three years, and that local contracts with persons other than newly imported emigrants should be restricted to one year.

"The first of these changes will affect the Assam Valley alone, for in Sylhet and Cachar contracts are rarely entered into for terms exceeding three years. The Government of India regret to find that this proposal has not been favourably received by employers of labour, but they still consider that a three years' initial contract is sufficient for popular and well-managed gardens, and that, therefore, penal agreements for a longer term should no longer be permitted. In 1882 the period of contract was raised to five years, on the ground that a three years' term was insufficient to enable the planter to recoup the cost of importing the labourer and maintaining him during the period of acclimatisation, when he is most liable to sickness and inefficient as a worker. This ground, no doubt, still holds good to some extent, but there is abundant evidence in the special report submitted by the late Mr. Quinton that emigrants, when well treated, do not ordinarily leave their gardens on the expiration of the term of their initial engagements, but renew their contracts from time to time till they are in a position to return to their homes, or, as more frequently happens, to engage in trade or cultivation in the labour-districts independently of the garden. It is further important to bear in mind that the five years' contract has chiefly taken root among labourers recruited under the arkati system and placed under agreement at Dhubri; it thus gives an undesirable advantage to arkatis and professional recruiters. The Bill accordingly provides for reducing the maximum period of first engagement to three years.

"As to the restriction of contracts entered into with local and time-expired coolies to one year, I have always felt very great doubt. There would certainly be great difficulty in working the restriction owing to the difficulty of distinguishing between new emigrants and those who have been for some time in the province, and it would be impossible to hold a minute inquiry in each case as to whether a person offering himself for engagement is really a new emigrant or

not. The Chief Commissioner reports that this difficulty, though not insuperable, would be very great, and would cause much annoyance and harassment to the parties concerned. It also appears that employers of labour are strongly opposed to the absolute restriction of such contracts to one year. It is accordingly proposed to limit the contract to one year only when it is entered into under section 111 between employer and labourer without the intervention of a public officer, but to allow the full maximum of three years in the case of contracts under section 112 executed before a Magistrate or Inspector. Section 11 of the Bill gives effect to this conclusion. It seems reasonable and will, I hope, prove acceptable to the planting community.

"The Government of India are not prepared to go further at present in the direction of imposing new restrictions on the labour contract system. But, when railway communication has been completed, it may be found practicable to remove the Sylhet District (and possibly also Cachar, or some parts of it) from the operation of the special law, and even to revise the arrangements in force in the Assam Valley.

"I have now explained the chief amendments contained in the Bill and the reasons for them. There are several other minor improvements of detail provided for, but I do not think it necessary to trouble the Council at present with any further discussion of the innumerable points connected with this intricate subject. The minor details may be left to be considered by a Select Committee as soon as the opinions of the persons most interested have been elicited."

The Motion was put and agreed to.

The Hon'ble SIR PHILIP HUTCHINS also introduced the Bill.

The Hon'ble SIR PHILIP HUTCHINS also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Fort St. George Gazette, the Calcutta Gazette, the North-Western Provinces and Oudh Government Gazette, the Central Provinces Gazette and the Assam Gazette in English and in such other languages as the Local Governments think fit.

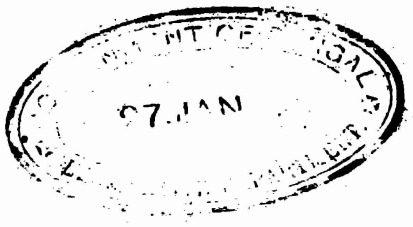
The Motion was put and agreed to.

The Council adjourned to Thursday, the 19th January, 1893.

J. M. MACPHERSON,
Offg. Secretary to the Government of India,
Legislative Department.

CALCUTTA;
The 13th January, 1893.

Government of India Central Printing Office.—No. 239 L. D.—20-1-93.—316.—H. S.



Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vict., cap. 67.

The Council met at Government House on Thursday, the 19th January, 1893.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G., G.M.S.I., G.M.I.E., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
The Hon'ble Sir P. P. Hutchins, K.C.S.I.
The Hon'ble Sir D. M. Barbour, K.C.S.I.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. Woodburn, C.S.I.
The Hon'ble Raja Udai Partab Singh, C.S.I., of Bhinga.
The Hon'ble J. L. Mackay, C.I.E.
The Hon'ble Dr. Rash Behary Ghose.
The Hon'ble Palli Chentsal Rao Pantulu, C.I.E.
The Hon'ble G. R. Elsmie, C.S.I.
The Hon'ble Sir G. H. P. Evans, K.C.I.E.
The Hon'ble C. C. Stevens.
The Hon'ble Fazulbhai Vishram.

NEW MEMBER.

The Hon'ble FAZULBHAI VISHRAM took his seat as an Additional Member of Council.

PETIT BARONETCY BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill for settling the Endowment of the Baronetcy conferred upon Sir Dinshaw Manockjee Petit, of "Petit Hall", in the Island of Bombay, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble DR. RASH BEHARY GHOSE moved that section 12 of the Bill be omitted. He said :—

"I confess that it is not without a certain degree of reluctance that I move the amendment which stands in my name. One of the foremost captains of indus-

trial enterprise in India, Sir Dinshaw Manockjee, has by his princely charities so endeared himself to all his countrymen that it is by no means an agreeable duty to have to oppose any of the provisions of a Bill which has been settled in concert with his legal advisers and which may therefore be presumed to embody his own wishes. Among a people who have always been distinguished for their munificence there is probably no name more illustrious than that of the recently created Baronet; and the provisions of the Bill now before us may not altogether unreasonably be regarded as a fitting recognition of the eminent services rendered by Sir Dinshaw Manockjee to the country. But, although I trust I yield to no one in my appreciation of the many claims to distinction possessed by the Parsi Baronet, I cannot forget that the proposed legislation is of a very exceptional character. It is an encroachment on the rule against perpetuities as known among lawyers—a rule based not on any artificial reasoning but on the most obvious principles of public policy, and which lays down that except within certain well-defined limits you cannot fetter the free transfer of property unless for purposes useful and beneficial to the public, or, as they are technically called, charitable uses. Among Hindus, as the law now stands, the right to prevent the unrestricted transfer of property exists, if it can be said to exist at all, in a most attenuated form. Greater latitude, and perhaps with more reason, is allowed in the English law, but even in England the limits within which alienation may be restrained are rigidly defined; and the well-known process of settling and resettling estates among the great English landowners does not, I may add, constitute any real exception, as it does not in any way trench upon the rule against perpetuities, but the mode in which this is accomplished is of too artificial a character to be readily intelligible to any one who is not a lawyer. The inviolable character of the rule under discussion and the jealousy with which it is guarded may be very well inferred from the fact that in the course of nearly two hundred years we come across only two instances in which the Legislature in England has interfered with it. Blenheim was settled inalienably on the family of the Duke of Marlborough by 3 & 4 Anne, c. 6, 5 Anne, c. 3, and 5 Anne, c. 4, and more than a hundred years later Strathfieldsaye was in the like manner settled on the family of the Duke of Wellington by 54 Geo. III, c. 161; but no provision is to be found in any of these Statutes at all similar to the provisions of section 12 of the proposed Act. The law, if I might say so without impropriety, has wisely set limits to the right of fettering inheritances, and I do not think that any subject of the Queen-Empress can fairly complain if we deny him a privilege which a great nation, not perhaps effusively demonstrative but full of the most generous impulses, refused to a

Marlborough and a Wellington. It is said that this Bill has been drawn on the model of Act XX of 1860. Now, I have looked into that Act, and I do not find anything in it at all analogous to section 12 of the present Bill. The section under notice is altogether a new departure for which I confess I have not been able to find any sufficient justification. It would also seem to be wholly unnecessary. The income of the property comprised in the proposed trust is evidently deemed sufficient, at any rate for the present, to support the dignity of a Baronet conferred upon Sir Dinshaw Manockjee. If, however, at any time in the future, that income should happen to be inadequate for the purpose, the funds might be easily augmented by the less objectionable process of adding to them such securities as are mentioned in section 11 of the Bill. I would also beg to point out that, even as regards any contemplated addition of immoveable property in the future, the acceptance of my amendment would only make this difference, that, instead of applying to the Governor of Bombay in Council, Sir Dinshaw Manockjee, or his successors, as the case may be, would have to move the Legislature; and I am sure any application bearing the honoured name of Sir Dinshaw Manockjee would always secure the respectful attention of Hon'ble Members. Moreover, there is no reason why the Legislature should delegate its functions in such matters to the Local Government, a course which, in my humble judgment, should be adopted only in cases of imperative necessity. I have only to add that in setting aside the ordinary law of the land in favour of a subject, however distinguished, we cannot proceed too cautiously, that such measures do not always fulfil the expectations entertained by their promoters, and that, in this country specially, exceptional legislation of the present order might create a precedent of a very inconvenient and embarrassing character."

The Hon'ble SIR GRIFFITH EVANS said that he was not aware until he was informed by his hon'ble friend the mover of the amendment that this Bill differed in its lines from the Jamsetjee Jeejeebhoy Act. He had originally only read the Statement of Objects and Reasons.

"The Statement of Objects and Reasons was as follows:—

'The object of this Bill is to settle the endowment of the Baronetcy conferred on Sir Dinshaw Manockjee Petit.

'It has been framed on the lines of Act XX of 1860 and has been settled in concert with Sir Dinshaw's advisers and the Government of Bombay.'

This satisfied him, and he had not looked at the Bill itself and did not suppose it was at all different from the Act of 1860. He found, however,

that, as had been pointed out by his hon'ble friend Dr. Rash Behari Ghose, there were two clauses of it entirely different from, and not to be found in any form in, the Jamsetjee Jeejeebhoy Act. The Jamsetjee Jeejeebhoy Act provided, roughly speaking, for an endowment for making inalienable a sum of money calculated to produce a lakh of rupees in order to support the title and dignity of the Baronetcy. The present Bill made an endowment of securities yielding an income of Rs. 1,25,000, which securities were bonds of the Municipal Corporation of Bombay and which were not likely to alter in value. That was amply sufficient. But section 11 of the Bill, which was not to be found in any other Act, and which he would be inclined to omit altogether, provided that a Baronet for the time being or any one on his behalf might, with the sanction of the Bombay Government, augment the funds and securities, and that the trustees might accept those securities, which would be added to the endowment and which would be for all time withdrawn for purposes of commerce; for the notification by which this would be done would be irrevocable, and it was a matter which could not be undone.

The next section (12), that against which the amendment was directed, provided in a similar manner with regard to immoveable property. It provided that, upon application to the Government of Bombay, the Baronet for the time being might ask to be allowed to add any immoveable property in the Presidency to the endowment, and that upon a resolution of the Governor of Bombay in Council the property in question should be so added and the Act should take effect with respect to it. It did not seem to him that those provisions were in any way necessary. He should perhaps not have troubled about them, seeing that the Bill was only a personal one, if it were not that those personal Acts were likely to be more or less numerous unless power was taken by Government to deal generally with this matter; and the reason why he desired to trouble the Council in this particular instance was that a precedent would be created, and if the Council had anything to do of this kind in Bengal there would be considerable dissatisfaction if the same powers were not given as those which were proposed in this Bill; and, therefore, if the clauses in question were allowed, an exceedingly embarrassing precedent would be created for the future. He should also remark that in this particular case those Parsi Baronets belonged to a trading class—a class illustrious for their wonderful power of making money and managing business. One must remember that the case was not the same as it would be in England, where a man who belonged to a great trading house had some high honour conferred upon him and thereupon generally became a member of the landed aristocracy and left trade. There was

no reason to suppose that those Parsi traders would ever be anything else but great and wealthy traders, or that they would depart from the line followed by their forefathers. There was a great objection to those clauses being made use of to tie up large funds and obliterate them for the general use for ever, and there was still greater objection to tying up land, specially in the Island of Bombay, a great trading centre, where land was limited, and to making such land inalienable for ever, unless there was some necessity for such a step. There was only one precedent, so far as he knew, for the course proposed, and that was to be found in the Murshidabad Act. In that Act the Council would find a clause which provided for the addition of further immoveable property to the Murshidabad endowment with the sanction of the Governor General in Council. That had been done under special circumstances. It was felt generally that the existing endowment was not as large as one would like it to be considering the position of premier noble of Bengal which had been given to the Nawab. It was also felt that our connection with the Nawab's family, the former Rulers of Bengal, whose estate had gradually shrunk to its present dimensions, made it desirable that his case should receive exceptional consideration; and it was believed that any addition that could be made without expense to the State to the Murshidabad endowment would be gratifying to everybody in view of the fate which had befallen the House. That was partly a political matter, and it was felt that there would be no danger of any excessive endowment being made: it was also thought that the Murshidabad Nawabs might inherit certain lands in the hands of other members of the family and desire to add them to the endowment.

The only object in this case was to provide such an endowment as would prevent the hereditary honour conferred by Her Majesty being brought into contempt by the poverty of the holder. This seemed amply provided for without these sections. He was aware that the power was safeguarded in the present Bill by requiring the sanction of the Governor of Bombay in Council; still he feared that, if in future the Government were to be approached for leave to add to the endowment by a wealthy holder of the title who had earned gratitude by fresh benefactions, such leave might be granted without much consideration as to the evil effects of rendering a trader's assets inalienable and tying up land in Bombay for ever. But it was mainly on the ground of its being a bad precedent and one that might embarrass the Government here in dealing with this subject that he objected to the clauses in question. He would suggest whether it might not be well under those circumstances to adjourn the consideration of the Bill and refer the matter to Bombay. He should not like the Council to do anything so ungracious as to cut out anything from a Bill of this kind without

further consultation with the Bombay Government and Sir Dinshaw Petit. But he thought it must be evident to the Council that it would be inadvisable to allow any power in the Bill such as the clauses in question provided for, and it was very possible that if a further reference was made to the Bombay Government the matter would be satisfactorily arranged.

The Hon'ble SIR ALEXANDER MILLER said:—

"With regard to the last point which the hon'ble member has mentioned, I may explain that this question was deliberately raised by the Government of Bombay, and I should like to read to the Council the correspondence which passed rather more than a year ago. If, however, the Council should be of opinion that any object would be gained by sending this Bill back to the Bombay Government, I should have no objection.

"On the 18th November, 1891, the Advocate General wrote the following opinion. I do not propose to read it all and will leave out the immaterial portions of it:—

'I see no reason on behalf of the Government of Bombay to object to any of the provisions of the Bill as now settled by the Legal Remembrancer, except those contained in sections 11 and 12 thereof, which seem to me to require the serious consideration of Government before they should be allowed to form part of the Bill. Section 11 enables any person or persons at any time or times hereafter to increase the stocks and moveable securities subject to the trusts of the Act, and no limit is placed on the amount of increase. It is possible, but by no means certain, that the assent of the Corporation would be required. Section 12 gives the same power with regard to immoveable property in the Presidency of Bombay, subject, however, in the case of persons other than the Baronet for the time being to the consent of the Governor of Bombay in Council. I give what seems to be the effect of the clauses without following their wording.

'Now the Bill is in itself an exception to the ordinary law forbidding the creation of perpetuities, and like Act XX of 1860 creates such a perpetuity for the purpose of adequately supporting a hereditary dignity conferred by Her Majesty. For that purpose Act XX of 1860 settled funds producing an annual income of Rs. 1,00,000, and the present Bill settles funds producing an annual income of Rs. 1,25,000; in each case a mansion house being also settled. Presumably the amount settled is in each case sufficient, in the opinion of Government, adequately to support the dignity conferred. It seems to me a matter open to grave objection that it should be hereafter possible to place a larger amount of property than the Legislature has allowed beyond the reach of the ordinary law against alienation and perpetuity. I am disposed to think that the Legislature ought again to be consulted before this is done; and I am decidedly of opinion that at least the consent of this Government or of the Government of India should be in every case a condition precedent.

I do not think that the risk of excessive endowment is an imaginary one, for in my experience as counsel I have constantly found it to be the desire of wealthy natives to tie up their property to the utmost extent practicable, even at the risk of litigation; and I think that this tendency would be encouraged if the settler could subject his property to a perpetual statutory settlement, as would be the case under these clauses of the Bill as they at present stand. I should add that no similar clauses are to be found in Act XX of 1860.'

"So that my hon'ble friend will see that this very point has been raised by the Advocate General in the most explicit form possible. Upon that the Under-Secretary to Government wrote to Sir Dinshaw Petit on the 3rd December, 1891, as follows:—

'I am directed to enclose copy of an opinion stated by the Hon'ble the Advocate General on sections 11 and 12 of the draft Baronetcy Endowment Bill. I am to inform you that Government concur in the Advocate General's view of the impolicy of those sections even if the consent of Government is made a condition precedent, and am to request that you will state whether you have any objection to make to the omission of the sections from the Bill.'

"So that the Council again will see that the Government of Bombay thought that the *primâ facie* case was exactly the same as the Advocate General had described it.

"On the 17th December, 1891, Sir Dinshaw Petit replied acknowledging the receipt of that letter and saying:—

'In submitting the clauses in question for the consideration and approval of His Excellency the Governor in Council, I can assure His Excellency that I had no intention that the Act should be availed of for the purpose of tying up property which was not required for the support of the title. My object in inserting the clauses in question was to provide to some extent against the contingency of the income afforded by the present endowment at some future date proving inadequate for the due support of the title.

'An income which comparatively few years ago was sufficient to cause the possessor of it to be regarded in Bombay as an exceptionally wealthy man is now possessed by hundreds of natives in Bombay, and it therefore occurred to me that what is to-day considered an exceptionally large income may at no great distance of time come to be regarded as quite the reverse. I had also in mind the possibility of the holder of the title being possessed of no means other than the property subject to the trusts of the Act, and being the father of a large family or having large calls upon his income.

'As I myself am concerned to see that all future holders of the title are in a position to support the title with due dignity and also to command the influence and respect which, in this country more particularly, are largely attributed to wealth, and wealth alone, I should be glad if Government would reconsider the matter with a view to some such provisions as those referred to being inserted in the Act.

'I submit that the previous sanction of His Excellency the Governor in Council to any addition to the property subject to the trusts of the Act is a sufficient safeguard against the abuse of the powers intended to be conferred by sections 11 and 12 of the Act, and I should have no objection whatever to that consent being made a condition precedent to the exercise of the powers proposed to be conferred by section 11, as it already is to the exercise of the powers proposed to be conferred by section 12 of the Act.'

"Now that letter was written on the 17th December, 1891, and it is obvious that the Government took it into very serious consideration, for they did not answer it till the 19th January, 1892, and their answer was practically contained in a letter to the Acting Solicitor to the Government of Bombay to the following effect:—

'I am to intimate that Government approve of sections 11 and 12 as modified by the Remembrancer of Legal Affairs, and to request, if the Hon'ble the Advocate General has no further corrections to suggest, that the Bill may be forwarded to the legal advisers of Sir Dinshaw for any remarks they may have to record before it is finally submitted to the Government of India.'

"So that the Council will see that the question has been before the Government of Bombay, that the point has been stated in the most explicit form, has been considered after hearing what Sir Dinshaw Petit had to say upon the subject, and that the Government of Bombay have deliberately come to the conclusion that these clauses should be inserted. Personally I have myself rather a strong objection to the tying up of land in perpetuity, and I think it very likely that if, in the first instance, the case had come before me, I should have taken the objection, at any rate to section 12—I have no very strong objection to section 11—that was taken by the Hon'ble Dr. Rash Behari Ghose; but, although I have no particular interest in the question personally, I should hesitate very much to interfere with the deliberate conclusion which has been come to—I may almost say as a matter of agreement—between Sir Dinshaw Petit and the Government of Bombay; though of course I do not dispute the right of this Council to alter the Bill in any way it pleases."

The Hon'ble SIR GRIFFITH EVANS asked permission to make a remark on the letters which his hon'ble friend had just read. He had heard those letters now for the first time, and there was no indication of anything of the kind in the Statement of Objects and Reasons. Now, having heard them, he was wholly dissatisfied with the reasons given in the letter of Sir Dinshaw's advisers. The same considerations would apply to every person who had wealth and on whom an honour of this kind had been conferred. All that the Legislature was concerned with was upholding sufficiently the dignity of the title which Her

Majesty had given. The Council would, no doubt, take into serious consideration anything that Sir Dinshaw Manockjee Petit had said; but the Government of Bombay had given no reason for abandoning the objection taken by itself and its Law Adviser, and this was a matter which might embarrass the Legislature in other directions; and therefore he would still ask the Council to adjourn the discussion in order that the question might be referred for the further consideration of the Bombay Government.

His Excellency THE PRESIDENT said :—

"I think it is quite clear that the suggestion made by the Hon'ble Sir Griffith Evans for an adjournment is a perfectly reasonable one. The point which has been discussed is probably presented for the first time to several Members of Council, and it certainly is by no means an unimportant one. The Bill, as has been observed, is a personal Bill, but there is no doubt that it affects very important questions of principle. It is a matter of notoriety that the Government of India has been approached with suggestions for similar legislation of a personal character, and I believe it is no secret that the larger question, whether it may not be desirable to provide by legislation of general application for the settlement of different forms of property, has also been urged upon us.

"Under these circumstances I think it would be very regrettable that, in a Bill of this kind, we should take any steps which might hereafter commit us upon so important a matter.

"I should myself be inclined to say that, of the two clauses—clauses 11 and 12—to which special attention has been drawn, clause 12 is open to much more serious objection than clause 11. The power to settle land has always been regarded with much greater jealousy than the power to settle securities, and my first impression is that the power to settle securities, subject to the consent of the Local Government, is not, on the face of it, an unreasonable power to ask for. The power, however, to settle land has always been regarded, and rightly regarded, with much greater jealousy, and the proposal to confer it in the present case raises much more serious difficulties.

"Under these circumstances, I think the discussion had better stand over for the present, and we shall consider whether it will be necessary or desirable to approach the Government of Bombay again, before proceeding further."

The further consideration of the amendment was postponed.

BANKERS' BOOKS EVIDENCE BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill to extend the provisions of the Bankers' Books Evidence Act, 1891, to the Books of Post Offices carrying on Savings Bank or Money Order business be taken into consideration. He said :—

"I have been asked in making this Motion to explain that I was under a misapprehension last week when I said that the Director General of the Post Office had taken exception to the view of the Select Committee that these books were public documents. Mr. Fanshawe writes to me to say that he never in any way questioned the view of the Select Committee that the books were public documents. What he did was to consult the Government Solicitor as to the procedure to be followed when postmasters were called upon to produce their books, and thereupon the Advocate General volunteered the opinion that the books were not protected by the Act. I beg leave, therefore, to withdraw Mr. Fanshawe's name from what I said in the matter last week. Under any circumstances, however, it is more desirable to settle a question of that kind by legislation than by litigation, and therefore I still propose to ask the Council to pass this Bill. But, before moving that it should be passed, I must ask permission to propose a verbal amendment. The fact is I was not able to give notice of this amendment because I did not know until late last night the particular form in which Mr. Fanshawe would like the Bill to be passed, and I could not give notice of the amendment until I had heard from him on the subject. He prefers, instead of the words 'any post office carrying on savings bank or money order business in respect of such business,'—the only really enacting clause in the Bill,—the words 'any post office savings bank or money order office.' That will involve an alteration in the title and an alteration in the preamble, and, with the permission of the Council, I propose to alter the whole thing, so that it shall run in the way in which I am going to read it. It will be—

'A Bill to extend the provisions of the Bankers' Books Evidence Act, 1891, to the Books of Post Office Savings Banks and Money Order Offices.'

Whereas it is expedient to extend the provisions of the Bankers' Books Evidence Act, 1891, to the books of the savings banks and money order offices of the Post Office; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bankers' Books Evidence Act, 1893; and

(*2*) It shall come into force at once.

2. After clause (*b*) of sub-section (*2*) of section 2 of the said Bankers' Books Evidence Act, 1891, the following clause shall be added, namely:—

Addition to definition of "bank" and "banker" in section 2, sub-section (*2*), of Act XVIII of 1891.

"(*c*) any post office savings bank or money order office."'

"That re-arrangement will put it into the shape in which the Post Office desire it to be, and it is made entirely for the satisfaction of the Post Office."

The Hon'ble SIR PHILIP HUTCHINS remarked that he understood the substance of the Bill would not be altered by these verbal amendments.

The Hon'ble SIR ALEXANDER MILLER replied that it would be precisely the same.

The amendment was put and agreed to.

The Motion was then put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill, as amended, be passed.

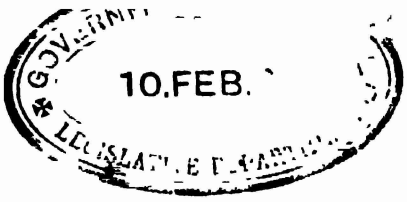
The Motion was put and agreed to.

The Council adjourned to Thursday, the 2nd February, 1893.

J. M. MACPHERSON,

CALCUTTA; *The 26th January, 1893.* } *Offg. Secretary to the Government of India, Legislative Department.*

Government of India Central Printing Office.—No. 289 L. D.—26-1-93.—316.—G. C. R.



Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vict., cap. 67.

The Council met at Government House on Thursday, the 2nd February, 1893.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G., G.M.S.I., G.M.I.E., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
His Excellency the Commander-in-Chief, V.C., G.C.B., G.C.I.E, R.A.
The Hon'ble Sir P. P. Hutchins, K.C.S.I.
The Hon'ble Sir D. M. Barbour, K.C.S.I.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. Woodburn, C.S.I.
The Hon'ble Raja Udai Partab Singh, C.S.I., of Bhinga.
The Hon'ble J. L. Mackay, C.I.E.
The Hon'ble Dr. Rashbehary Ghose.
The Hon'ble Palli Chentsal Rao Pantulu, C.I.E.
The Hon'ble G. R. Elsmie, C.S.I.
The Hon'ble Sir G. H. P. Evans, K.C.I.E.
The Hon'ble Fazulbhai Vishram.
The Hon'ble C. C. Stevens.

RULES UNDER THE INDIAN COUNCILS ACT, 1892.

His Excellency THE PRESIDENT said:—"Before we proceed to the business on the paper I should like to make a statement to the Council upon another matter.

"Hon'ble Members will recollect that, during the last session of the Imperial Parliament, a Bill was passed affecting in several respects the Council which I have the honour of addressing, and the local Legislative Councils of Bombay, Madras, Bengal, and the North-West Provinces. The circumstances under which the measure was introduced, and the discussion which took place while it was passing through the two Houses of Parliament, are well known, and I do not think it necessary to recur to them now.

"The changes introduced by the new Act had reference to the constitution of the Legislative Councils, and to their functions. As regards their constitution, the Act provided for an increase in the number of Additional Members, and conferred upon the Governor General in Council the power of making regulations as to the conditions under which such Members should be nominated. As regards the functions of the enlarged Councils, the Act gave them the right of discussing the annual Financial Statement, and also the right of addressing questions to the Government.

"With the object of introducing these changes, it was enacted, under clause 1 of the new Act, that 'the Governor General in Council may from time to time, with the approval of the Secretary of State in Council, make regulations as to the conditions under which such nominations,' (*i.e.*, the nominations of Additional Members) 'or any of them, shall be made by the Governor General, Governors, and Lieutenant-Governors respectively, and prescribe the manner in which such regulations shall be carried into effect.'

"The provision affecting the functions of the enlarged Councils is clause 2 of the Act, under which 'the Governor General in Council may from time to time make rules authorising, at any meeting of the Governor General's Council for the purpose of making Laws and Regulations, the discussion of the annual Financial Statement of the Governor General in Council and the asking of questions, but under such conditions and restrictions as to subject or otherwise as shall be in the said rules prescribed or declared.'

"The clause contains a like provision authorising the heads of the Local Governments to make similar rules, and it is provided that rules made under the Act by Governors in Council and Lieutenant-Governors shall be 'submitted for, and shall be subject to, the sanction of the Governor General in Council,' while the rules made by the Governor General in Council are to be 'submitted for, and shall be subject to, the sanction of the Secretary of State in Council.'

"Acting upon the lines thus laid down for our guidance in the two clauses which I have quoted, we at once entered into correspondence with the Local Governments with a view to framing regulations under clause 1 for the nomination of Additional Members. We also prepared rules with regard to the discussion of the Financial Statement and the asking of questions in this Council, and we entered into correspondence with the Local Governments as to the rules which were to be made for similar purposes in the case of their Legislatures.

"The question was one of some difficulty, and necessitated a considerable amount of correspondence. We did not think it necessary to insist upon absolute uniformity as between province and province in the matter of the new rules, but it was obviously desirable that they should be framed in a uniform spirit, and in accordance with what we believed to be the general principles accepted by Parliament when the Act was passed.

"We were able to arrive at an understanding with the Local Governments before the end of the Simla season, and by the end of October last our proposals had been submitted to the Secretary of State.

"It was my earnest hope that we should have obtained the sanction of Her Majesty's Government by a date which would have enabled us to bring the whole of the new rules into operation at the commencement of the present session, but it is scarcely matter for surprise that the Secretary of State should have thought it necessary to examine carefully proposals so far-reaching and so important as those which we have submitted to him, and we learnt a few days ago that, in consequence of a legal difficulty which had been encountered in reference to the new regulations for the appointment of Additional Members, it was not likely that we should, for some little time to come, be made aware of His Lordship's views upon the whole question.

"Under these circumstances we considered it desirable to apply to Her Majesty's Government for permission to introduce immediately that part of the new procedure which has reference to those enlargements of the functions of the Legislative Councils, of which I spoke just now. I am glad to say that this suggestion was readily agreed to by Lord Kimberley, and that we have received his sanction to introduce at once the new rules under which, in future, Hon'ble Members will have the right of discussing our financial proposals, and of addressing questions to us on matters of public interest. The new rules will be published in the official Gazette, but it may be desirable that I should take this opportunity of stating briefly what their substance will be, and of mentioning one or two considerations by which we have been guided in framing them.

"The rules for the discussion of the Financial Statement are of the briefest and simplest character. They merely lay down that—

(*i*) the Statement shall be explained in Council every year and a printed copy given to each Member; that

(*ii*) after the explanation has been made, each Member shall be at liberty to offer any observations he may wish to make on the Statement; and that

(*iii*) the Financial Member shall have the right of reply, and the discussion shall be closed by the President making such observations, if any, as he may consider necessary.

"The rules for the discussion of the Financial Statement in the Local Legislatures are framed upon the same lines, and I need not further refer to them.

"The privilege thus conferred upon the Legislative Councils is, I venture to think, one of great importance. I have, more than once, expressed in this room my strong opinion that the present practice, under which the Council has been allowed an opportunity of criticising the financial policy of the Government of India only upon those occasions when financial legislation was resorted to, could not be defended. The right to criticise the financial administration of a Government is one of which it is impossible to over-estimate the value, and I have never concealed my opinion that it was improper as well as illogical that that right should be frequently denied merely upon the technical ground that no Bill upon which a financial debate could be originated happened to be before the Council. The right to discuss, and to criticise, is one which should be either altogether withheld, or altogether conceded. The present arrangement, under which it has been exercised one year and held in abeyance the next, is altogether indefensible. These financial discussions will now take place with regularity, and not upon sufferance, and I feel no doubt that both the public and the Government of India will gain, the one by the wider knowledge and insight into public affairs which it will obtain, the other by the increased opportunity which will be given to it of explaining its position, and defending its policy.

"I will now pass to that portion of the new regulations which has reference to the asking of questions under section 2 of the Councils Act of last year. The main point which we found ourselves called upon to consider had reference to the conditions and restrictions under which the newly-conferred right should be exercised. We propose that at least six days' notice shall ordinarily be given in writing to the Secretary in the Legislative Department of any questions which an Hon'ble Member intends to ask; but that the President may, if he thinks fit, allow a question to be asked with shorter notice, or may require a longer notice should the circumstances demand it.

"We have laid down that questions must be so framed as to be merely requests for information, and must not be put in an argumentative or hypothetical form, or in defamatory language. No discussion will be permitted in respect of an answer given to a question. These two restrictions are substantially identical with those under which questions may be put to Her Majesty's Government in the British House of Commons. A question, of which notice has been given by one Member, may, if he so desires, be asked by another Member on his behalf.

"There remains one point of the utmost importance. We had to consider whether it was desirable to specify certain subjects with regard to which questions should be inadmissible. It is obvious that there are some matters with regard to which no Government can allow itself to be publicly interpellated, such matters, for example, as military preparations at a time when hostilities are in progress or in contemplation, or matters of financial policy involving the premature disclosure of information affecting the market. The conclusion to which we came was that it was better, at all events in the early days of the new procedure, not to commit ourselves to any such specification of subjects. The impropriety of a question may be due quite as much to the time and circumstances under which it is asked as to the subject-matter, and, although we believe that experience may possibly enable us to lay down rules of the kind suggested, we are of opinion that, for the present, it will be desirable to content ourselves with taking power for the President to disallow a question upon the ground that it cannot be answered consistently with public interests. The reformed Councils will, I have no doubt, show a proper appreciation of the limits within which the right of interpellation can be exercised without injury to public interests, and I have every hope that it will very rarely be found necessary to resort to the veto of the President. I may add that in this case also the rule adopted is similar to that in force in the House of Commons.

"The rules as to questions asked in the Local Legislatures are conceived in the same spirit, but they contain two special and important restrictions. Under the first of these, Members of Council are precluded from asking questions with regard to matters or branches of the administration other than those under the control of the Local Government. The second restriction is this, that in matters which are, or have been, the subject of controversy between the Governor General in Council, or the Secretary of State, and the Local Government, no question shall be asked except as to matters of fact, while the answer must be confined to a statement of the facts. The necessity of both these restrictions is,

I think, so obvious that I need not take up the time of the Council by defending them.

"These are the changes which will come into immediate operation. Of those which are likely to follow, and which affect the constitution, as distinguished from the functions, of the Councils, I am obviously precluded from speaking while the matter is still in the hands of the Secretary of State. I will, however, venture to say that, even if the changes which we have been able to introduce were to stop short with those which I have now explained,—and I do not suggest for a moment that this is likely,—a very material advance will have been made in the direction of increasing the usefulness of the Legislative Councils. Their functions have, until now, with the solitary exception to be found in those occasional discussions of the Budget which I have just mentioned, been strictly and narrowly limited to those of assisting the Government of India in the work of legislation. They have been absolutely precluded from asking for information, or inquiring into matters of public interest. In advising Her Majesty's Government to allow us to exceed these limits, we feel that we have taken a very serious and far-reaching step. We have taken it under a deep sense of the responsibility which we have assumed; we are fully aware that we are effecting a radical change in the character of these Legislatures; but we are profoundly convinced that the time has come when it is desirable to bring them into closer touch with the rest of the community, and that the reform which we are about to introduce is one which will be for the advantage of the Government as well as of the people of this country.

"I ought, perhaps, to add that the new rules will be published in the Gazettes immediately."

LAND ACQUISITION ACT, 1870, AMENDMENT BILL.

The Hon'ble MR. WOODBURN presented a preliminary Report of the Select Committee on the Bill to amend the Land Acquisition Act, 1870. He said:—"The Report which I present is a very full one, and I do not think it is necessary for me to go into detail in explaining the changes which we have recommended.

"The changes we have recommended in the Bill are considerable. The most important of these concerns the procedure in the adjustment of claims to compensation. The present Act requires the Collector or assessing officer to refer for the decision of a Court aided by assessors any difference between

himself and the owner of the land to be acquired as to the value of it. This reference has equally to be made if the owner is absent when the award is made, or if even one of many persons interested should chance to be so absent. The experience of the last twenty years has shown that the effect is to occasion a very large number of unnecessary references to the Courts. Non-attendance is very much more frequently due to indifference than to dissatisfaction with the award. The local enquiries which precede an award are often made by an official subordinate of the Collector, and, if the owner is satisfied with the preliminary estimate on the spot, he does not give himself the trouble of attending at the head-quarters of the Collector. In the case of railway lines more particularly, where the line is taken through the lands of a proprietary community, an insignificant corner of one owner's field may be taken; but, if he is not present at the award, his co-parceners, who have larger interests and do attend, may be subjected to all the expenses of a trial before assessors, although they are themselves perfectly satisfied with the award. The Bill introduced by Mr. Bliss last session proposed to make the Collector's award final, leaving any dissatisfied proprietor the option of bringing a civil suit to alter the award. We think that so material a departure from the present procedure is not necessary, and that it will sufficiently meet the requirements of the case if, instead of providing rigidly that reference shall be made irrespective of the wishes of the proprietor, reference shall be made only when the proprietor so desires. This is the recommendation that has been made by more than one of the Governments consulted, and we are of opinion that it is right. We have to bear in mind that the proprietors with whom the Collector deals are often poor peasants, who have neither the means nor the courage to challenge his decisions by a formal suit against the head of the district administration, and that they would accept very inadequate compensation rather than do so. We have recommended therefore in modification of the provisions of the Bill that the existing procedure be continued with some necessary alterations. ..

" One of these, as in the Bill, is that the present system of trial with assessors be discontinued. The Governments and the High Courts consulted are of one opinion on this matter. They say that in practice the assessor is not an adviser to the Judge but a partisan—a useless and very expensive addition to the costs of a reference to the Courts. In the words of Mr. Justice Parker of the Madras High Court, 'the nominees of the parties are faithful to their trust and deliver their opinions with minds altogether unaffected by the evidence.'

"We have altered the definition of 'Court.' In the Act the Court to which a reference is made is in Non-Regulation Provinces the Commissioner of the Division. Since the Act was passed, the Punjab and Oudh have separated their Civil from their Revenue Courts, and there are now few parts of India in which there are not independent and distinct Civil Courts. Wherever these exist, it is to these that any objections to the Collector's award should be submitted.

"As regards costs the present Act directs that whenever the Court enhances the Collector's award—it may be by a single rupee—the Collector shall pay the whole of the costs. Under the Bill it is left to the Judge to apportion costs under the ordinary rules of the Code of Civil Procedure. The question of costs is of diminished importance if assessors be no longer appointed, but we think that the Civil Procedure rules are not quite fairly applicable to the case of reasonable objections to a Collector's award, and we have recommended that the Collector shall ordinarily pay the costs when his award is enhanced, but have given the Judge authority to apportion costs when the claim was in his opinion extravagant and unreasonable.

"Much exception was taken in the correspondence placed before the Committee to the definition of 'market-value' which was proposed in the Bill. It is certainly inapplicable in many parts of India, and it would be difficult, if not impossible, to prepare a definition which would be universally and fairly applicable. We agree with the High Court of Bengal and the Lieutenant-Governor of the Punjab—himself a high authority on matters of the kind—that it is better, as at present, to make no express definition, but leave it to the Collector and the Court to ascertain and determine in each case what under the conditions of the locality would be a fair price for the land it is proposed to acquire.

"In the chapter of the Act regarding the payment of compensation we have added some important clauses. The first empowers the Collector to deposit the amount of his award in Court whenever there is a dispute as to the sufficiency of it or as to the persons entitled to receive it. The second empowers the owner of the land, although dissatisfied with the award, to take payment of it and refer to the Court his claim for the balance. To the extent of the award the Government will be relieved of any charges for interest, and it will no longer be to the advantage of the owner to protract proceedings.

"These, I think, are the principal points in which we have altered the Bill. We propose to maintain, except as to the association of assessors, the exist-

ing procedure in the adjustment of compensation, which we think to be certainly the fairest to the owners of land that is being compulsorily acquired, but we have corrected in other respects those practical defects in the law which the Local Governments have brought to our notice. We think, however, as the changes are considerable, the Bill as now amended should be republished and circulated for criticism."

PORAHAT ESTATE BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill to annex the estate of Porahat to the Singhbhum District, and for certain other purposes, be taken into consideration. He said:—"The Council will remember that this is a small Bill merely for the purpose of giving legal effect to what has been for some time the administration of this estate, which was forfeited many years ago, and a portion of which has been treated as belonging to the Singhbhum District though never formally attached to it or managed as if it were part of the Singhbhum District. The Lieutenant-Governor of Bengal is anxious that the matter should be put on a strictly legal footing, and this Bill was merely introduced for that purpose."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER said:—"I have now to move that the amendments which I shall presently explain be made in the Bill. The Bill, as drawn, proposed that the law in force in the Kolhan in the Singhbhum District should be applied to the estate of Porahat. It appears that for some reason that is not desirable and, as the object of the Bill is not to alter the law but merely to legalise administration, I propose to leave out all reference to the Kolhan, and in order to do so it will be necessary in the first place to change the preamble. I propose that the third paragraph of the preamble should run in this way:—

'And whereas it is expedient that the said estate should be annexed to the Singhbhum District, and should, as forming part of that district, be declared, for the purposes of the Scheduled Districts Act, 1874, to form part also of the scheduled district described in that Act as the Chutia Nagpur Division.'

"I introduce the word 'scheduled' before 'district' in the last line but one of the preamble, because Mr. Stevens pointed out to me that we had already in the preamble used this word in its strictly technical sense, and that Chutia Nagpur is not a technical district; but, as it is described as one of the districts in the Scheduled Districts Act, by putting the word 'scheduled' before

'district' we show that we are using 'district' on that occasion in a special sense.

"The second amendment is consequent upon the one which I have just moved. It is that section 3, which was introduced for the purpose of bringing the law in the Kolhan into force in Porahat, should be omitted, and that as that section is struck out the others should be renumbered.

"The third amendment is this. As the Bill is drawn it proposes to legalise all acts of executive authority which have been done by any officer acting under the authority of the Government or otherwise in pursuance of an order of the Government '*or* which have been or shall be ratified by the Lieutenant-Governor of Bengal.' It seemed to me on reading the section that it went too far, because there might conceivably be acts of executive authority done by an officer without any consultation with the Lieutenant-Governor and the Lieutenant-Governor might disapprove of them. I propose therefore to alter that word 'or' into 'and'. The practical effect of that will be that, if any objection is taken to anything which has hitherto been done by anybody in Porahat, the Lieutenant-Governor will be able to say 'Well, I ratify it,' or, by refusing to ratify it, will allow the objection to be good. I do not think that it is the least necessary under the circumstances that there should be any formal order of the Lieutenant-Governor, unless somebody is challenged, and in case any officer of Government is challenged on the ground that what has been done is not warranted by law, then, if it was a thing that ought to have been done, the Lieutenant-Governor has only to stop the proceeding at once by saying that he ratifies what has been done; and that seems to me to be preferable to the issue of any formal general order on the subject. I do not, however, want to assume that anything will be challenged at all.

"There is one other amendment which is purely verbal, which is not on the paper, because I did not notice it in time. In the fourth line over the page of the Bill will be found the words 'no suit and other proceeding,' &c. 'Of course it should be 'no suit or other proceeding,' &c. I propose therefore that the word 'and' should be turned into 'or'."

The amendments were put and agreed to.

The Hon'ble SIR ALEXANDER MILLER then moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

GOVERNMENT TENANTS (PUNJAB) BILL.

The Hon'ble MR. ELSMIE moved that the Bill to provide for the grant of Special Tenancies in certain Government lands in the Punjab be taken into consideration. He said that, on introducing the Bill on the 12th January, he had briefly explained its general purport. He had now only to add that the Local Government had approved of the measure as introduced.

The Motion was put and agreed to.

The Hon'ble MR. ELSMIE said that he had now to move that certain verbal amendments which had been suggested to him only this morning should be made in section 8 of the Bill with a view to bringing out the meaning somewhat more clearly. He would read the whole section, so that the alterations might at once be appreciated. The section ran as follows :—

"8. The rights or interests vested in a tenant by or under this Act shall not be capable of being attached or sold in execution of a decree or order of any Court or in any insolvency proceedings, nor shall they or any of them be transferred by sale, gift or mortgage or charged by any private contract without the previous consent in writing of the Financial Commissioner."

Transfer of rights of tenants.

The proposal was that the latter part of the section should run as follows :—

" nor shall they or any of them, without the previous consent in writing of the Financial Commissioner, be transferred or charged by any sale, gift, mortgage or other private contract."

The amendment was put and agreed to.

The Hon'ble MR. ELSMIE also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 16th February, 1893.

J. M. MACPHERSON,
Offg. Secretary to the Government of India,
Legislative Department.

CALCUTTA;
The 3rd February, 1893.

Government of India Central Printing Office.—No. 326 L. D.—8-2-93.—316.—G. C. R.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Acts of Parliament 24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14.

The Council met at Government House on Thursday, the 16th February, 1893.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G., G.M.S.I., G.M.I.E., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
His Excellency the Commander-in-Chief, V.C., G.C.B., G.C.I.E., R.A.
The Hon'ble Sir P. P. Hutchins, K.C.S.I.
The Hon'ble Sir D. M. Barbour, K.C.S.I.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. Woodburn, C.S.I.
The Hon'ble Raja Udai Partab Singh, C.S.I., of Bhinga.
The Hon'ble J. L. Mackay, C.I.E.
The Hon'ble Dr. Rashbehary Ghose.
The Hon'ble Palli Chentsal Rao Pantulu, C.I.E.
The Hon'ble Sir G. H. P. Evans, K.C.I.E.
The Hon'ble Fazulbhai Vishram.
The Hon'ble C. C. Stevens.

SUPPLY OF PROVISIONS TO GOVERNMENT OFFICERS ON TOUR.

The Hon'ble RAJA UDAI PARTAB SINGH of Bhinga asked whether the attention of Government has been drawn to the hardships to which cultivators and village shop-keepers are subjected under the present system by which tahsildars collect *russuds*, *viz.*, provisions, fodder and fuel, etc., for Government officers on tour; and whether it would not be advisable to institute enquiries into the present arrangements with a view to relieve the cultivators and venders of the burdens now laid upon them.

The Hon'ble SIR PHILIP HUTCHINS replied:—

"The attention of the Government of India has not been specially directed to the hardships alleged by the Hon'ble Member in his question to be

suffered by cultivators and village shop-keepers owing to the system of collection by tahsildars of supplies for Government officers on tour. There was indeed one petition received from certain 'ilákadars and raiyats' in Behar some months ago, in which it was stated, among other things, that the Sub-Divisional Officer brought 500 or 600 persons in his train, and that these people required things not usually found in villages and brought ruin on the villagers. It does not appear that any 'shop-keepers' took part in this representation: and, supposing them to be paid for their goods, it would clearly be to their advantage that their customers should be as numerous as possible. This petition was transferred to the Local Government for disposal. Complaints relating to this matter have occasionally been noticed in the Vernacular Press, but they have been for the most part of a general nature, and too vague to justify an order for enquiry. The subject is one within the province of the Local Governments to deal with, and the Government of India have no doubt that it has attracted their attention, and that in most, if not in all, provinces orders exist, in the spirit of section 8 of Bengal Regulation XI of 1806, requiring 'a just price for the provisions or other articles provided to be secured to the persons entitled thereto,' as well as forbidding requisitions for more articles than are actually required, and prohibiting the interference of the tahsildar at all where there are regular shops or markets at which the necessary supplies can be readily obtained. I may perhaps add my belief that officers on tour generally make it a rule either to pay for their supplies personally, or at least to satisfy themselves that the price of any supplies which have been procured through the tahsildar has reached the person from whom they have been obtained.

"The Government of India will, however, have great pleasure in circulating the Hon'ble Member's question and this answer to Local Governments and Administrations, in order that their attention may be specially drawn to the matter, and that they may consider whether the present arrangements sufficiently provide for the avoidance of hardship to the furnishers of supplies, and, if not, in what way they should be supplemented."

PARTITION BILL.

The Hon'ble DR. RASHBEHARY GHOSE presented the Report of the Select Committee on the Bill to amend the Law of Partition. He said:—

"In presenting this Report I have very little to add to what is contained in the Report itself. We have made no change in the substance of the Bill, but

we have supplied some omissions; for instance, in section 3 we say that the Court shall not only value the share or shares but proceed to a direct sale. We have also added a clause prescribing what is to be done should a shareholder or shareholders who have applied for leave to purchase ultimately refuse to do so.

"Some verbal alterations have also been made in some of the sections to avoid ambiguity, which is always a fruitful source of litigation, as every lawyer knows, and some suitors too by painful experience.

"We have omitted two sections of the Bill because the matters which were dealt with in those sections are sufficiently provided for in the Code of Civil Procedure, which will govern all proceedings in suits under the proposed Act.

"We have also in deference to a suggestion made by the Calcutta High Court altered the language of section 8 as the sections are now numbered. The section has been now so framed as to give parties a right of appeal from an order directing a sale under section 3 or section 4 which would include the valuation made by the Court.

"We have also extended, to a certain extent, the operation of section 10, the last section of the Bill, so as to make it applicable to all cases in which a final decree for partition has not been made.

"I ought perhaps to say a few words with regard to some suggestions made by the Local Governments but which the members of the Select Committee felt themselves unable to accept. The Bengal Government recommended that tanks, specially old tanks, should be dealt with in an exceptional way, and that the rule which requires the consent of at least one-half of the shareholders before the Court can direct a sale should be relaxed in the case of such tanks. The suggestion was, I think, made in the interests of sanitation, but the members of the Select Committee felt themselves unable to comply with the request because it was thought that a sufficient case had not been made out to entitle the Court to deal with tanks in the way suggested by His Honour the Lieutenant-Governor of Bengal. I may also say, from my own experience, that such an amendment was not likely to be acceptable to the people, especially in the case of kirkee tanks, which are regarded as appurtenant to private houses and are used, for domestic purposes, by the members of the family, including women.

"Another suggestion of the same Local Government, apparently made on the recommendation of the British Indian Association, was that, having regard

to what is called the compulsory character of sales under the Act, something in the nature of compensation should be given to such shareholders as might be obliged to part with their shares on the lines of the Land Acquisition Act. It seemed to the members of the Select Committee, however, that the recommendation was based, to a certain extent, upon a misapprehension of the character of the provisions contained in section 3 of the Bill. That section authorizes no compulsory sale of any shareholder's share. It is only when a shareholder himself applies for the sale of his share that he may be bought up by the other shareholders, so that there can be no compulsory sale at all under the Act. The Government of the North-Western Provinces and Oudh proposed that certain words should be added to sub-section (*4*) of section 1 of the Bill so as to avoid what appeared to the Local Government to be a conflict between the provisions of this Bill as also those of section 265 of the Code of Civil Procedure and the local Act, XIX of 1873, dealing with the partition of estates actually paying revenue to Government or the land-revenue of which has been redeemed. It seemed to the members of the Select Committee, however, that there was no real conflict whatever in this matter. The present Bill does not in any way enlarge the jurisdiction of the Civil Courts, nor does it curtail in any way any jurisdiction possessed under local or other statutes by the Revenue Courts in any part of the country. The jurisdiction of the Revenue Courts is, moreover, amply protected and safeguarded by sections 4 and 11 of the Code of Civil Procedure. A recommendation in the nature of an amendment to this section was also made by the Government of Madras. That Government proposed that the words 'immoveable property paying revenue to Government' ought to be defined so as to make it clear that raiyatwari holdings in the Madras Presidency were not intended to be included in the section; but, as the Madras Government themselves point out, the construction which has been invariably put upon the same words in the Code of Civil Procedure excludes raiyatwari holdings from the operation of section 265 of that Code. The Madras Government suggest that we ought, in order to avoid any contention, to say expressly that raiyatwari holdings are not intended to be included. I should, however, think that any attempt on our part to define immoveable property paying revenue to Government would have precisely the consequence which the Madras Government were seeking to avoid.

"Another proposal made by the Madras Government was that, instead of having a separate Act, the provisions of the Bill might be included in the existing Code of Civil Procedure. This proposal was carefully considered by the members of the Select Committee, and an alternative draft was prepared by

my learned friend Mr. Macpherson, embodying, as far as it could be done, the provisions of this Bill in the existing Code of Civil Procedure. It was ultimately, however, decided by the Select Committee that the provisions of this Bill could not be properly incorporated with the Code of Civil Procedure. The Bill really deals with matters of substance; it affects the ordinary rights of shareholders to a certain extent, and does not therefore fall within the domain of mere procedure. There were other objections too to the proposal of the Government of Madras with which, however, I do not think it is at all necessary to detain Hon'ble Members.

"In conclusion I have only to add that, having regard to the nature of the alterations, which are not of a very material character, the members of the Select Committee do not consider that the Bill requires to be republished, and they accordingly recommend that the Bill should be passed as amended by them."

INLAND EMIGRATION BILL.

The Hon'ble SIR PHILIP HUTCHINS moved that the Bill to amend the Inland Emigration Act, 1882, be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Mr. Mackay, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Palli Chentsal Rao Pantulu, the Hon'ble Mr. Stevens, the Hon'ble Mr. Buckingham and the mover, with instructions to report within five weeks.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 23rd February, 1893.

J. M. MACPHERSON,
Offg. Secretary to the Govt. of India,
Legislative Department.

CALCUTTA;
The 17th February, 1893.

Government of India Central Printing Office.—No. 336 L. D.—17-2-93.—316.—C. H. L.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Acts of Parliament 24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14.

The Council met at Government House on Thursday, the 23rd February, 1893.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G., G.M.S.I., G.M.I.E., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
His Excellency the Commander-in-Chief, V.C., G.C.B., G.C.I.E., R.A.
The Hon'ble Sir P. P. Hutchins, K.C.S.I.
The Hon'ble Sir D. M. Barbour, K.C.S.I.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. Woodburn, C.S.I.
The Hon'ble J. L. Mackay, C.I.E.
The Hon'ble Dr. Rashbehary Ghose.
The Hon'ble Palli Chentsal Rao Pantulu, C.I.E.
The Hon'ble Sir G. H. P. Evans, K.C.I.E.
The Hon'ble Fazulbhai Vishram.
The Hon'ble C. C. Stevens.
The Hon'ble J. Buckingham, C.I.E.

NEW MEMBER.

The Hon'ble MR. BUCKINGHAM took his seat as an Additional Member of Council.

BILL TO LEGALIZE EXECUTION IN BRITISH INDIA OF CAPITAL SENTENCES PASSED BY BRITISH COURTS IN FOREIGN TERRITORY.

The Hon'ble SIR ALEXANDER MILLER presented the Report of the Select Committee on the Bill to legalize in certain cases the execution within British India of capital sentences which have been passed by British Courts exercising in or with respect to foreign territory jurisdiction which the Governor General in Council has in such territory.

He said that the changes made by the Select Committee were purely verbal and he did not think it necessary to take up the time of the Council on this occasion by going into them. He had to apologise sincerely to Members of Council for bringing them down to a very meagre bill of fare, but at the time when today's sitting of the Council was arranged he was under the impression that Dr. Rashbehary Ghose would be ready with the Partition Bill and that the Council would really have had some business to transact.

HABITUAL OFFENDERS BILL.

The Hon'ble SIR PHILIP HUTCHINS said:—

"There is a Bill which I introduced last month, the Habitual Offenders Bill, about which I should like to say a few words before the Council is adjourned. It is not down in the agenda paper, but it has occurred to me that Hon'ble Members may like to have the earliest possible intimation of our intentions with regard to it, especially as it has not met with universal approval. If Your Excellency sees no objection, perhaps I may be allowed to say that it will not be proceeded with this session and to explain why we have come to this resolution.

"Hon'ble Members have doubtless noticed that exception has been taken to some provisions of the Bill in several quarters. It is undoubtedly a new departure, and there is no part of it which can be considered urgent or which the Council ought to be asked to pass into law without the fullest discussion and deliberation. I have ascertained that some of the material opinions for which we have called cannot well be furnished by a date which would permit of the measure receiving adequate consideration before the end of next month. It seems better, therefore, that I should not ask for a Select Committee at all during this session, but that the whole Bill should stand over till next cold weather. This will give abundant time for Local Governments and the public generally to consider each portion of the Bill in all its bearings and to arrive at mature conclusions. Meanwhile the opinions which led to the introduction of the measure will be published for general information.

"At the same time I am glad to have this opportunity of giving some further explanations with regard to the Bill, and especially that part of it which relates to surveillance as an alternative to security for good behaviour, as it appears to have been misapprehended in certain quarters.

"The effect of section 4 is merely to enable the Magistrate to make an order for surveillance instead of sending a man to gaol. I cannot suppose any one would object to that. Surveillance is obviously something milder than incarceration.

"But section 3 gives to a Magistrate having jurisdiction discretion to determine whether in the particular case security can be accepted as an adequate protection for the public, or whether the habits of the person informed against are such that he ought rather to be placed under surveillance. This provision has been denounced as savouring of oppression. I am entirely of the opinion that even the habitual should be fairly treated, but, on the other hand, I must assume that the Legislature holds the executive authorities responsible for the prevention of crime, as far as this is possible, and is prepared to give them all reasonable powers needful to that end. I expect that we shall find a general consensus among persons who have any knowledge of the habits of the criminal classes that this provision is not only reasonable but even necessary. I will give a concrete instance by way of elucidating its intention. The most dangerous of the habitual offenders against property—the professional burglar or robber—finds little difficulty in furnishing security. Even if he has no money of his own, it is a good investment for the particular habitual receiver whom he patronizes to find the required sureties or, if need be, to deposit the necessary sum in cash. The robber is then free to carry on his depredations wherever he thinks he can do so with impunity, and the surety incurs no risk at all so long as the robber escapes detection. For such a case, I venture to submit, surveillance would operate far more effectually as a safeguard to the public. Indeed, it seems to be the only effectual safeguard.

"Setting aside for the moment the new clause (*f*) of section 2, no one can be made the subject of an order either for security or surveillance who has not been judicially proved to be an habitual offender against property. In fact, section 2, omitting clause (*f*), does little more than express the present law in clearer language. It has been said that the police will have no difficulty in finding any number of witnesses to make out an obnoxious person to be an habitual; but as a matter of fact, so far as my experience goes, this is a case in which witnesses are especially averse to come forward. A man's neighbours often know him to be a dangerous criminal, and will tell you so out of Court and pray earnestly for protection against him; but they are afraid to come forward as witnesses, knowing that at the worst he will give security, while the more dangerous his character the more certain he is to wreak vengeance on those who

depose against him. Moreover, it should be remembered that, even when witnesses are forthcoming, they will be subject to cross-examination, contradiction and all the other ordinary tests of honesty and credibility.

"As to the new clause (*f*) I do not wish at present to add anything to what I said when I introduced the Bill. It was inserted in a tentative way to meet the wishes of some of the Local Governments, and personally I can only say that I am inclined to think something of the kind desirable. When it comes before a Select Committee they will of course consider carefully what other authorities have to say about it and report for the consideration of the full Council the conclusion at which they may arrive.

"I am sorry to see that section 5 has also been misunderstood: a careful perusal of the section would, I think, have removed the misapprehension. It requires not only two convictions, but also that the Court shall be fully satisfied that the convict habitually commits crime or depends on crime as a means of livelihood, before he can be declared an habitual offender. The declaration is further subject to appeal. I cannot at present see what other safeguards are required or even possible.

"As to the last section the only question of principle appears to be whether it should be retained in this general enactment or relegated to a separate Bill which will apply only to the Punjab, where it is known to be required. As it is certain to be a mere dead-letter where it is not required, it seems of little practical importance how this question may be decided: when a Select Committee comes to be appointed they will see what is recommended by the various local authorities, and report their opinion. The justification of the provision is very simple. It can only be put in force where there is a widespread conspiracy to commit offences, such, *e.g.*, as arson, and to screen the offenders. In such a locality it cannot be unjust to levy contribution from those classes which connive at and facilitate such offences, while the classes who suffer from them will simply help to indemnify one another against the losses to which every one of them is exposed."

The Council adjourned to Thursday, the 9th March, 1893.

J. M. MACPHERSON,
Offg. Secretary to the Government of India,
Legislative Department.

CALCUTTA;
The 24th February, 1893.

Government of India Central Printing Office.—No. 385 L. D.—24-2-93.—316.—G. C. S.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Acts of Parliament 24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14.

The Council met at Government House on Thursday, the 9th March, 1893.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G., G.M.S.I., G.M.I.E., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
His Excellency the Commander-in-Chief, V.C., G.C.B., G.C.I.E., R.A.
The Hon'ble Sir P. P. Hutchins, K.C.S.I.
The Hon'ble Sir D. M. Barbour, K.C.S.I.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. L. Mackay, C.I.E.
The Hon'ble Dr. Rashbehary Ghose.
The Hon'ble Palli Chentsal Rao Pantulu, C.I.E.
The Hon'ble Sir G. H. P. Evans, K.C.I.E.
The Hon'ble Fazulbhai Vishram.
The Hon'ble C. C. Stevens.
The Hon'ble J. Buckingham, C.I.E.
The Hon'ble A. S. Lethbridge, M.D., C.S.I.
The Hon'ble J. Woodburn, C.S.I.

NEW MEMBERS.

The Hon'ble DR. LETHBRIDGE and the Hon'ble MR. WOODBURN took their seats as Additional Members of Council.

QUESTIONS.

The Hon'ble SIR GRIFFITH EVANS said that he had been requested to read the question proposed by the Hon'ble Mr. Rattigan, who was not present in Council. The question was as follows:—

Whether the attention of the Government has been directed to the conflicting Full Bench Rulings of the Calcutta High Court (reported in I. L. R. 18 Cal. 372) and of the Chief Court of the Punjab (a printed copy of which is placed on the table), respectively, on the subject of the amenability of military officers to be sued for debts under four hundred rupees in amount; and whether in view of this serious conflict of judicial opinion in regard to the true interpretation of the existing law, which it is undesirable should continue,

and of the extreme hardship which merchants in the Punjab will suffer if the construction adopted by the Chief Court of the Punjab—according to which a military officer, who is frequently stationed at a place where no Small Cause Court exists, cannot be sued for a debt under four hundred rupees in amount except in a Small Cause Court having local jurisdiction in the place where he may happen to reside, and which is not open to any revision by way of appeal—is maintained, the Government proposes to take any measures to remove this conflict of opinion and to remedy the hardship referred to.

The Hon'ble LIEUTENANT-GENERAL BRACKENBURY replied:—"Until the notice of the Hon'ble Mr. Rattigan's question was received, the Government of India had not heard of the decision of the Punjab Chief Court referred to by the Hon'ble Member, as it had not up to that time been published in the Punjab Record or any other recognised law report received by the Government. But the Government of India had reason to believe that the same view as that taken by the Punjab Chief Court was acted upon at Bombay, and was aware of the full Bench ruling of the Calcutta High Court reported in I. L. R. 18 Cal. 372, to which the Hon'ble Member has also referred.

"The question is one of the construction of the Army (Annual) Act, which is an Act of the Imperial Legislature. This is a matter entirely for the Courts, and it may be hoped that a future Army (Annual) Act will place the intention of Parliament beyond doubt. The Government of India has already called the attention of the Secretary of State to the doubt which has arisen as to the meaning of the Act, and will now forward to him the decision of the Chief Court of the Punjab, the Hon'ble Mr. Rattigan's question, and this answer."

The Hon'ble MR. CHENTSAL RAO put the following questions:—

I. I observe that within the last twelve years there has been a surplus of Rx. 11,339,000 in eight years, and a deficit of Rx. 5,297,000 in four years, leaving a net surplus of Rx. 6,042,000. Will the Government of India be pleased to explain how the net surplus has been spent and what portion of it is included in the cash balance at the end of 1892-93?

Surplus.	Rx.
1881-82	2,582,727
1882-83	706,633
1883-84	1,387,496
1886-87	178,427
1888-89	37,018
1889-90	2,612,033
1890-91	3,688,171
1892-93	146,600 estimate
Total	11,339,105

Deficit.	Rx.
1884-85	386,446
1885-86	2,801,726
1887-88	2,028,832
1891-92	80,000 estimate
Total	5,297,004
Net surplus	6,042,101

II. Will the Government of India be pleased to lay on the table a statement showing the number of Europeans (excluding Eurasians) employed in each Province and each Department, excepting the Military, distinguishing Covenanted from Uncovenanted officers; giving also the aggregate amount of salaries drawn by them in a year, say, 1891-92; the salaries being arranged, if possible, in the following groups, *i.e.*, number drawing Rs. 200 and less, over Rs. 200 and up to Rs. 400, over Rs. 400 and up to Rs. 600, over Rs. 600 and up to Rs. 800, over Rs. 800 and up to Rs. 1,000, from Rs. 1,000 to Rs. 1,500, from Rs. 1,500 to Rs. 2,000, from Rs. 2,000 to Rs. 3,000, and from Rs. 3,000 upwards?

III. Will the Government of India be pleased to lay on the table a statement showing the extent to which the Land Improvement Loans Act has been availed of during the last five years, and the amount of bad debts, if any, which have had to be written off as irrecoverable, with any explanation that may exist as to why the Act has not been more largely availed of?

The Hon'ble SIR DAVID BARBOUR replied to the first question put by the Hon'ble Mr. Chentsal Rao as follows:—

"1. In addition to the money required to meet ordinary expenditure, the Government of India find funds for the construction of railways and canals and for loans to municipalities, agriculturists and others.

"2. The bulk of the expenditure on the construction of canals and railways and the disbursements on account of loans are not charged against Revenue, and do not affect the surplus or deficit of the year.

"3. Funds for such purposes are ordinarily provided by borrowing, but when there is a surplus of Revenue over Expenditure in any year the cash balance is increased by the amount of that surplus, and the sums that must be borrowed for the public service are correspondingly reduced. Such reductions in the amounts to be borrowed keep down the charge for interest in future years.

"4. Briefly, therefore, the answer to the first portion of the question of the Hon'ble Mr. Chentsal Rao is that the net surplus of the last twelve years has been used in diminution of borrowing by the Government of India.

"5. As the surplus of each year is absorbed in the cash balance, from which funds are drawn as required, it is impossible to say what portion of the net

surplus of the last twelve years will remain in the cash balance at the end of 1892-93, but, if a net surplus had not accrued during the last twelve years, the Government of India must either have borrowed more money than they have done or accepted a corresponding reduction in the cash balance."

The Hon'ble SIR DAVID BARBOUR replied to the Hon'ble Mr. Chentsal Rao's second question as follows :—

"To prepare a table of the nature described by the Hon'ble Mr. Chentsal Rao would be a work involving very considerable delay.

"But it so happens that a similar return was prepared a year ago for presentation to Parliament. I lay on the table the return* presented to Parliament, being 'A statement of the numbers and annual salaries of officers on active service in India on the 31st March, 1890.'

"I also lay on the table two statements† showing the distribution by Provinces of the officers (other than military) included in the return presented to Parliament.

"Although these tables do not draw all the distinctions which the Hon'ble Member desires, and although the classification of salaries is different from that which he suggests, they give substantially the information he asks for, and I hope it will not be considered necessary to undertake the preparation of an entirely new set of tables."

The Hon'ble SIR PHILIP HUTCHINS replied to the third question put by the Hon'ble Mr. Chentsal Rao as follows :—

"As requested, a statement‡ has been prepared showing the loans granted in the several provinces under the Land Improvement Loans Act, 1883, during the five years ending with 1890-91, and also the extent to which instalments which had become due were remitted in those years. The total advances have risen during these five years from ₹4,68,000 to ₹8,56,000, or by over 80 per cent. The average remissions amount to ₹1,170 per annum, but, in the absence of any information as to the instalments which fell due during each year, I cannot tell what proportion of the debts can be regarded as irrecoverable. It is, however, safe to say that there are very few bad debts.

---

* *Vide* Appendix A.
† *Vide* Appendices B and C.
‡ *Vide* Appendix D.

"I am sorry that I am unable at present to give any later figures. The Hon'ble Member's question does not include advances made under the cognate Act of 1884, the Agriculturists' Loans Act; the only statistics as yet available for 1891-92 give the two classes of loans in combination, and it is impossible just now to separate them. Moreover, they cover a period of 17 months, and, as they have been taken from the famine reports, they are confined to those provinces which suffered from drought. They have, however, been added to the statement, as they show generally that the two Acts were employed in 1891-92 to an extent hitherto unknown. To make this clear I have had another statement* prepared showing advances made under the Act of 1884. Taking both Acts together, about 12¾ lakhs represent the average sum advanced per annum, but in 1890-91 the aggregate sum had risen to 20⅓ lakhs. But during 1891-92 and the first five months of the following year—the period of 17 months already mentioned—no less than 48 lakhs were distributed as loans in seven provinces, Madras alone accounting for about 30 lakhs—principally for the construction of wells. I think I may venture to say that similar large advances are likely to be made available again, if required, in times of famine.

"The Hon'ble Member asks also why the Act has not been more largely availed of. The exact figures given only carry us up to March, 1891, or 7½ years from the date on which the Act came into force. It is true that the Act of 1883 was not an altogether novel measure: it replaced an Act of 1871: but the earlier Act had proved ineffective, and I believe it was condemned by the Famine Commission. After 1883 fresh rules had to be made and promulgated: my hon'ble friend must be well aware that it takes a considerable time for any new set of rules to reach and be understood by illiterate villagers. The extent to which loans can be given is not unlimited: it is bounded by the allotments which our financial position enables us to make to the several provinces. Bearing these facts in mind, the progress made has not been discouraging, and it may reasonably be anticipated that in future every allotment which the Government of India can afford will be fully worked up to. There is reason to believe that some of the original rules were needlessly cumbrous and elaborate, and under them nearly every application had to be referred to some high district official for sanction. Where this was the case, they have undergone amendment, and I think I may venture to claim that they are now in every province as simple and elastic as is consistent with the proper scrutiny of the security tendered and with the safety of the public money for which the Government is responsible to the general tax-payer. The only other explanation which has come to notice of the backwardness of the people to apply for loans under the Act is their preference for the local money-lender, to whose ways they are habituated, who lives

* *Vide* Appendix E.

among them, to whom they must resort for loans not covered by either of the Acts, and whose high rate of interest enables him to be more lenient in exacting punctual repayment of his capital. It has been represented too, and I am afraid only too truly, that the acceptance of a State loan often brings on the cultivator the hostility of the money-lender which he cannot venture to incur. The question of establishing agricultural banks to render the raiyats independent of the money-lender has been carefully considered, but the measure was found fraught with danger to the general tax-payer and to involve the creation of such enormous establishments as to be quite impracticable."

LAND ACQUISITION ACT, 1870, AMENDMENT BILL.

The Hon'ble MR. WOODBURN moved that the Hon'ble Mr. Stevens be added to the Select Committee on the Bill to amend the Land Acquisition Act, 1870.

The Motion was put and agreed to.

PARTITION BILL.

The Hon'ble DR. RASHBEHARY GHOSE moved that the Report of the Select Committee on the Bill to amend the Law of Partition be taken into consideration.

The Motion was put and agreed to.

His Honour the LIEUTENANT-GOVERNOR OF BENGAL moved that the following be added to section 2 of the Bill as amended by the Select Committee, as sub-sections (*2*) to (*4*), namely:—

"(*2*) When the Court has directed a sale under this section, it shall cause a valuation to be made of the property in such manner as it may think fit, and shall after due enquiry pass an order approving or modifying the valuation. An appeal shall lie from an order approving a valuation of the property to the next superior Court.

"(*3*) The cost of such valuation shall be paid out of the proceeds of the property when sold.

"(*4*) When a valuation has been made under this section and a sale of any particular share or shares is afterwards directed under section 3 or section 4, no fresh valuation of such share or shares shall be made under those sections, but the value of such share or shares shall, for the purposes of such sale, be determined with reference to the valuation so already made as aforesaid."

He said:—"This amendment is the last of several suggestions which I have communicated to the Hon'ble Mover of the Bill, some of which have been accepted by him and embodied in the subsequent amendments which he is about to move, and some of which he has shown to me good reasons for considering not to be necessary. I confess that, although holding the view that the Bill as a whole is a valuable one, and one which it is necessary should be passed, I have entertained considerable anxiety as to the manner in which it may be used, especially in outlying mufassal stations, and the effect with which it may be worked by the stronger shareholders as against the weaker shareholders in undivided property. The Bengal Government in its reply on the Bill as first drawn up urged that some compensation should be given to those shareholders who were compelled to see their property sold, on the ground that it was in the nature of a compulsory sale. It is true that the second clause of the Bill prescribes that the Court shall hold that it is for the convenience and advantage of the shareholders that the sale should be carried out; and it is further obvious that it would be extremely difficult to provide a fund out of which compensation should be paid to these shareholders, and therefore we did not think it right to press that suggestion; but at the same time we were strongly impressed by the feeling that, in sales of this kind, conducted as they are in the outlying districts, there is great danger that injustice may be done and that a property may be sold for something considerably below its value. I have lately had before me, under very careful consideration, an extremely important letter from the High Court which was addressed to the Bengal Government on the subject of the proposed amendment of the Certificate Act and the sale law; and, with the permission of the Council, I will read two extracts from that letter as explaining the nature of the views which had influenced me in bringing forward this amendment. This letter, I may explain, is with reference to the amendment of the Certificate Act, under which a certificate has the effect of a decree of a Civil Court, and sales take place in execution of the decree. In paragraph 15 of their letter of the 29th August, 1891, the High Court wrote—

'Whatever system may be adopted, and however carefully that system may be administered, there will occur cases in which properties are sold very much under their real value, and even on the assumption that in such instances nobody has been to blame except the judgment-debtor himself, who, therefore, suffers by reason of his own negligence, still it seems a frightful penalty to impose on a man for his neglect to pay a trifling sum that his estate should be sold for a fraction of its value and he himself reduced to ruin. Extremely hard cases of this nature have occurred under the existing law The Judges recommend that a provision should be introduced, analogous to that contained

in the Bengal Tenancy Act with regard to sales for arrears of rent, by which a debtor whose property has been sold should always be at liberty to come before the Court and pay the amount of the demand, or so much of it as remains unsatisfied, together with a penalty, or, if the whole of the demand has been satisfied, to pay simply the penalty and the amount of the purchase-money with interest, and thereupon to have the sale set aside. This the Judges would allow him to claim as of right without any inquiry into the circumstances. It seems to them that by this provision Government could not possibly be a loser; the purchaser could sustain no serious injury; and extreme hardship would be avoided in individual cases.'

"Then in paragraph 19, turning to the cognate question of the sale law, they wrote —

'On the other hand, the Judges recommend that, while taking away the power of bringing a civil suit, the Legislature should give to the owner of an estate sold for arrears of land-revenue a right similar to that which now exists in the case of an estate sold for rent, and which they have recommended in paragraph 15 of this letter with regard to estates sold for the recovery of public demands other than land-revenue. They would allow the person whose estate has been sold to appear before the Collector within a fixed time, to pay the amount due to Government together with a penalty, and the amount of the purchase-money with interest; and thereupon the Collector should be empowered, and it should be his duty, to set aside the sale, his order having the same effect in this respect as the decree of a Civil Court. This proposal, if adopted, could in no case entail any loss of revenue, or any delay in its realization. It would tend to secure prices at revenue-sales corresponding more nearly than now with the value of the land sold; for, instead of having to face the possibility of costly and complicated litigation on the part of the person whose land is sold, the worst that a purchaser would have to fear would be the return of his purchase-money with interest. And it would provide a remedy against the extreme hardship that occurs from time to time when properties are sold at revenue-sales for a small fraction of their value, and the owners are brought to ruin.'

"Looking to the great experience of the High Court, and to the high authority with which they write, it seemed to me important to bring this utterance of theirs to the notice of the Council, and I had intended to propose an amendment to carry out their views as to giving a power of redemption; but the Hon'ble Mover of the Bill proposes to introduce a separate amendment to the Civil Procedure Code which will meet that particular case and will allow the particular shareholder who is bought out to redeem his property within a limited time. But still we have the fact brought to our notice that, in cases of this kind, extreme hardship does often occur, and I was anxious that in the preparation of this Bill every possible care should be taken to avoid such hardship. One of the simplest and clearest methods of avoiding hardship is that a reserve price should be put upon the estate, and that it should not be allowed to be sold by auction in a way

which is said sometimes to occur under what we may call 'a conspiracy of silence'—in the absence of those most interested in the sale of the property, and when it would not be likely to fetch an adequate price. A proposal to meet this case has been made by the Hon'ble Mover and will be introduced subsequently.

" But no explanation is there given as to how the reserved price is to be decided on, and it is for this, among other things, that my amendment provides. Moroever, in section 3 the case is put where a shareholder who s not one of those who applies for a partition desires to purchase, and in that case a valuation has to be made; and in section 4, where a transferee who is not an original shareholder desires to effect a partition, one of the remaining shareholders has the power to buy on valuation; that is to say, the law has provided for two cases in which a valuation should be made by the Court. It is also going to provide that there shall always be a reserve price put upon the sale. It seemed to me, therefore, that it would simplify the Act and make the procedure plainer if it was laid down in the first place in section 2 that in all cases a valuation should be made under the order of the Court. Then, when the shareholder applies to purchase, the valuation is already made, and it would not be necessary to have a second valuation on his application; and, in the other case, when the transferee desires to have the property sold, one of the original shareholders has the opportunity of using the same valuation: and, thirdly, on that valuation might be based the reserve price, which the Judge need not disclose, but which he would frame in his own mind and communicate to the auctioneer so as to avoid the chance of the estate being sold very much below its value.

" I put this suggestion to the Council as it seems to me to be a simplification of the law as proposed. I admit that the three sections taken together for the most part cover the matters which it seems necessary to cover, but I submit that it will be a more simple and less complicated procedure that the valuation should be made in the first place as a matter of course under the ordinary rules, and that it should be referred to afterwards in the subsequent sections; and that the cost of the valuation should be costs in the case, paid out of the sale of the property, rather than that it should be made specially on the application of the shareholder, and that if the valuation turned out larger than he expected, so that he is unable to buy this property, he should be saddled with the cost of doing what it seems to me the Court should do in all cases for the sake of the whole body of the shareholders."

The Hon'ble SIR ALEXANDER MILLER said:—"I entirely sympathise with the Lieutenant-Governor in his desire to secure that no sale should take place at an under-valuation; but I have had a great deal of experience in the sale of property,—both of property belonging to lunatics and that sold in the ordinary jurisdiction of the Court of Chancery,—and I am satisfied that nothing would tend more to spoil the sale of property than that the official valuation of it should be known before the sale. I can tell you exactly how it works in England, and I think that it would work much the same way in India. Property is set up for sale by auction. A number of men want to buy it cheaply. If they know what the reserve price is, any one of them would bid up to the reserve price but not beyond it. I have seen that over and over again. They bid just enough to show that they are interested, in the hope that the property will be bought in, and then they come running into chambers with an offer, and say 'Now, I will give you the reserve price as nobody else has done it.' I have seen on one occasion myself, when no bid came within £100 of the reserve price, no less than five or six applicants came next morning to offer to give me the minimum price for the property; and greatly to their astonishment, instead of letting them purchase it amongst themselves or giving it to the first applicant, I put it up to a sort of irregular auction then and there and got £400 over and above the price fixed for it. So that I am most desirous that, whatever is done, the valuation of the property should be kept a secret until after the sale is over, and the principal objection I have to His Honour's suggestion is that it provides that an order should be made approving the valuation, which will make it possible for everybody who has access to the records of the Court to know precisely what that valuation is. It is quite true that, where it has been necessary in the interests of shareholders to provide that where the property is not to be sold to any other but a shareholder, a valuation must be made; because there is no other way in which you can give a right of pre-emption, but such valuation will have been asked for by the applicant at his own risk of what it may amount to; and I confess that, if a shareholder chooses to say, 'Value this share, because I want to buy it,' I think he should be unable afterwards to withdraw from the application without paying all the costs thereby incurred, and I should be sorry to give him an opportunity of obtaining any such valuation on speculation. Therefore, although, considering that as the Bill originally stood there was no provision made for a reserve price—I can quite understand the motives which induced His Honour to propose this valuation now—I should very much prefer that the reserve price should be fixed in the ordinary way by a Judge without any order, or without any one

knowing what it is, or even what it is like. If a property is to be sold, there should be no contest over the valuation, no previous hearing in Court, no possibility of appeal as to the amount before any order for sale is actually made, all of which would no doubt add to the cost of litigation and tend, I am afraid, to impair the excellent amendment of the law which is proposed by this Bill. I would myself have proposed some such clause as the Hon'ble Mover has now proposed with regard to reserve price, if I had not taken it for granted that the Court would do that of its own motion, as the Courts in England do; but, as I understand that, under the existing practice in execution sales, this would not be done, I quite agree that it is necessary to provide for the case; but I think that a reserve price will be sufficient to prevent any risk of sale at undervalue; and moreover it is to be remembered that for properties through the country generally this Bill will probably have very little operation. If you have property to be divided through the country generally, it will consist mainly of land, and there is seldom any difficulty in making a partition in specie, while the parties to whom the property belongs generally prefer a partition in specie to a sale and partition in money. It is only when you come to a town, where there are small bits of property divided into perhaps ten or fifteen different shares, and which would be incapable of being enjoyed separately, that the value of a sale instead of a partition comes to be recognised; or when you have a dwelling-house, such that if divided into separate tenements none of them could be beneficially enjoyed, it is evident that his share of the purchase-money would be much better for each shareholder than his share of the house. But, under any circumstances, I think the owners would be sufficiently protected, and the Court would have more power over the sale, by taking the ordinary course of a sale by auction with a sale reserve price below which the auctioneer is instructed not to go, than by having a valuation fixed by order beforehand which everybody knows and as to which everybody is quite determined that, whatever else he may bid, it will not be so high as that."

The Hon'ble DR. RASHBEHARY GHOSE said:—"I regret I am unable to see my way to accept the amendment of His Honour the Lieutenant-Governor. His Honour admits that the amendments which stand in my name cover the same ground, or very nearly the same ground, as the amendment proposed by him. But His Honour claims for his amendment the merit of simplicity. I am sorry I cannot agree with His Honour. I have objections to the substance as well as to the form of the proposed amendment, but as these objections run

into one another I do not think they can be usefully kept distinct. I propose, therefore, to deal with my objections to His Honour's proposal in the order which suggests itself to me as the most convenient. The first clause of the amendment runs thus :—

'When the Court has directed a sale under this section, it shall cause a valuation to be made of the property in such manner as it may think fit, and shall after due enquiry pass an order approving or modifying the valuation. An appeal shall lie from an order approving a valuation of the property to the next superior Court.'

"Now this clause, while emphasising perhaps somewhat unnecessarily the duty of the Court to make due inquiry, not only leaves the Court no discretion in any case whatever to make the valuation itself, but compels it either to approve or modify the valuation when it has been made through some other agency ; but why should not the Court have the power in a proper case to cancel the valuation altogether and direct a fresh valuation? The last part of the clause again gives a right of appeal to the parties from an order approving a valuation but not from an order modifying a valuation. It then goes on to say that the appeal shall lie to the next superior Court. Now, although the expression 'superior Court' has a technical meaning in England, it has no such meaning in this country. Assuming, however, as the use of the word 'next' before the words 'superior Court' would seem to show, that the words mean the Court immediately superior in grade to the primary Court, my objection is that the provision would have the effect of altering the whole law in this country as regards the forum of appeal. Take, for instance, a suit in the Court of the Subordinate Judge in which the amount at stake exceeds Rs. 5,000. The appeal in a suit like this would lie to the High Court. But, if you take the classification of the different Courts as you find it in our Statute-book, the Court of the District Judge is the next superior Court to that of the Subordinate Judge. Then, again, the clause does not tell us whether there is to be only one appeal or two appeals—one in the nature of a first appeal and the other what is known as a second appeal. I come now to the next clause, which runs thus :—

'The cost of such valuation shall be paid out of the proceeds of the property when sold.'

"The first question that occurs to me with reference to this clause is what is to happen if the property—by which I suppose the whole property is meant—is not ultimately sold. Under the proposed law it might not be at all necessary in a great many cases to sell the whole property, as some of

the shares might be bought up in the manner provided in sections 3 and 4 of the Bill. How would the costs be paid in such a case? But there is another and perhaps a stronger objection which would readily occur to those who have any experience in such matters. A provision like the one under notice would encourage the temptation to indulge in the practice of what is known as 'making costs.' Only declare that the costs shall in all cases be payable out of the estate, and the parties would find themselves under a strong inducement to make frivolous opposition. The general rule is to leave all questions of costs to the discretion of the Court, except in rare cases, such, for instance, as those contained in section 3 of the Bill. It has been said by the Hon'ble Mover of the proposed amendment that, as in a great number of cases the Court would be obliged to value some of the shares in the property, you would not put the parties to any unnecessary expense by insisting upon a valuation of the whole. It would be simply a question of arithmetic. You would have only to multiply by so many times the value of an undivided share. But we must remember that a particular share might be subject to an encumbrance while the other shares might be unencumbered, and the Court under the proposed amendment would be bound to take an account of such encumbrances in every case, although in the end the account might be absolutely useless to the parties. Then, again, it has been said that the valuation would be useful for the purpose of settling the reserve price in those cases in which the shares are not bought up under sections 3 and 4. But is it really necessary to provide such an elaborate machinery with preliminary rights of appeal or appeals merely for the purpose of fixing a reserve bidding? Give the parties a right of appeal or of excepting to the valuation, and they would be sure to avail themselves of it to the utmost extent, however fruitless in the end the result might be. I venture, therefore, to think that the proposed amendment, instead of having the merit of simplicity as compared with the amendment which I am going to move, would give rise to a great many difficulties, causing unnecessary expense and delay to the parties."

The Hon'ble MR. CHENTSAL RAO said that while the Lieutenant-Governor's amendment was much to be commended, the objections to phraseology of it which had been pointed out by the Hon'ble Dr. Rashbehary Ghose possessed considerable weight.

As the point was one which had not been fully considered by the Select Committee, if it was open to him to do so, he would beg leave to suggest that the Bill be referred back to the Committee for the purpose of reconsidering the question and submitting a further report.

The Hon'ble SIR GRIFFITH EVANS said that he had not intended to speak, but, as the Hon'ble Mr. Chentsal Rao had spoken out of his turn, he could only plead his irregularity as an excuse for—with His Excellency the President's permission—committing another.

He felt that, apart entirely from questions of phraseology, which, as the Hon'ble Mr. Chentsal Rao said, were matters which could be easily set right—if there was any difficulty about phraseology—by a reference to the Select Committee, the question really was whether it was desirable to have those valuations made in every instance where there was an order for sale, or to leave them to be made in the particular instances where a shareholder wished to buy at a valuation.

He could not help feeling that the views expressed by Dr. Rashbehary Ghose upon this point seemed to be sound. If, whenever an order to sell was made, the Court was obliged to cause a valuation to be made, that would entail a commission for local investigation. The result would be that the parties would plunge into litigation; a report would be made, exceptions would be put in which would be argued before the Judge, and finally there would be a right of appeal to another Court. One could not help feeling that all this expense and delay was to be avoided if possible. The proposal made by Dr. Rashbehary Ghose, that the valuation should only take place when necessary, and that in every other case there should be an upset price fixed by the Judge, would seem to be a very much cheaper, more expeditious and more desirable method of dealing with the question.

He thought himself that the Court could be fairly trusted to fix some reasonable upset price, and would be supplied by the parties with ample materials.

With reference to what had been said about secresy, he feared that, with regard to the upset price and valuation, there was no possibility of anything of that kind. The nature of the proceedings was such as to render secresy out of the question.

The Hon'ble SIR PHILIP HUTCHINS said:—"The substantial difference between the two amendments on the paper seems to be that His Honour desires to have a formal appraisement in every case, while the hon'ble and learned Member in charge of the Bill, admitting the desirability of commencing with an upset price, would leave the Court to fix such initial bid as it pleases, and not require a formal valuation unless it is proposed to sell a share only and to exclude public competition.

"In my judgment Dr. Rashbehary Ghose's amendment will sufficiently answer the real purpose which His Honour has in view, and I am prepared to vote for it. I do not think these are cases in which the property is at all likely to be knocked down at a price much below its real value. I agree with Sir Griffith Evans that it is more likely that, owing to the anxiety of each shareholder to retain the family house in which he has been accustomed to live, it will fetch a fancy value.

"His Honour's amendment is not quite consistent with the sections which follow, but I will not go into the question of phraseology, as any defects can easily be cured by re-committing the Bill to the Select Committee.

"It seems to me that the determination of an upset price does not at all require an accurate appraisement of the property, and that any one, be he a shareholder or not, who hinders the ordinary procedure of a sale by public auction and causes the expense of such an appraisement, may well be required to pay the costs if after all he refuses to pay the full estimated value."

The Hon'ble SIR ALEXANDER MILLER said that before the vote was put he wished, with the permission of the Council, to say one word as to the objection which had been taken to the phraseology of the amendments. Although on the point of substance he had already given his opinion, he wished to explain that the phraseology was his. His Honour the Lieutenant-Governor had explained to him what he wanted done, and he had put it into the language in which he thought it would best carry out the intention. If in any respect, therefore, the language was open to criticism, that criticism should fall upon him and not upon his hon'ble friend the Lieutenant-Governor.

His Honour THE LIEUTENANT-GOVERNOR said:—"I should like to make one or two remarks before the votes are taken. With regard to the objections which have been taken to the wording of the amendment, it seems to me that the amendment is only open to those objections because it has attempted to go into questions which the sections of the Bill as they now stand have slurred over. The valuation must be made under sections 3 and 4, and although my hon'ble friend Sir Philip Hutchins has said that an absolute formal valuation

need not be made if a reserve price is fixed, yet I would ask you to remember the manner in which practically this business will be conducted in the mufassal stations. Take, for instance, a case of a large pucka house standing in the country, far from the head-quarter station, and belonging to several shareholders at bitter feud with each other. The Munsif has never seen it, and the only possible way in which he can put on a reserve price is by sending the Civil Court amin to value it. Now the Civil Court amin is not, as a rule, a trustworthy officer, and the High Court have declared their desire that some measure should be taken to improve the condition and status of the Civil Court amins and the manner in which their work is carried out; and that question is still under the consideration of the Bengal Government. It was because I felt great distrust of the mode in which the valuation might be made, and of the manner in which the reserve price might be put upon an estate by a Court which had no personal knowledge of its value, and under circumstances in which there was every possible probability of temptations being offered to commit a fraud, that it seemed to me desirable that the valuation should be carried out in a formal and definite manner, and that provision should be made for contesting that valuation if it is an improper one. In fact, whether the law expressly makes provision for such proceedings or not, they will have to be carried out, and the Hon'ble Mover's Bill will not be improved by ignoring them.

"Again, with regard to Sir Griffith Evans' opinion that such property would always sell at a high value, I would only ask you to remember what the High Court has said in the letter I have just read, as to the frequency of sales much below the real value of the property. Now, if there was any property which it might be supposed would have fetched a high value, it is a permanently-settled estate in the province of Bengal; and yet I understand that hardly any appeal against a sale comes to the Board of Revenue in which the plea has not been put forward that the estate has been sold for a tenth of its value; and the High Court have asserted in this letter, which I have read, that occasionally there is truth in these allegations, and that property is sold below its value. And, if it is granted that property of this kind is often sold under value, surely there is still greater probability that property in the nature of house-property, for which in a country village there would be no competition, would be sold for an extremely nominal value. It is for this reason that I am anxious that all care should be taken in effecting the valuation and securing the rights of the weaker shareholders, whose position, I fear, may be somewhat imperilled by the passing of this Bill."

The question being put, the Council divided—

Ayes.	*Noes.*
The Hon'ble Mr. Woodburn.	The Hon'ble Dr. Lethbridge.
The Hon'ble Mr. Buckingham.	The Hon'ble Mr. Stevens.
The Hon'ble Fazulbhai Vishram.	The Hon'ble Sir Griffith Evans.
The Hon'ble Mr. Chentsal Rao.	The Hon'ble Dr. Rashbehary Ghose.
His Honour the Lieutenant-Governor.	The Hon'ble Mr. Mackay.
	The Hon'ble Sir Charles Pritchard.
	The Hon'ble General Brackenbury.
	The Hon'ble Sir Alexander Miller.
	The Hon'ble Sir David Barbour.
	The Hon'ble Sir Philip Hutchins.
	His Excellency the Commander-in-Chief.

So the amendment was lost.

The Hon'ble DR. RASHBEHARY GHOSE moved that the following amendments be made in the Bill as amended by the Select Committee, namely :—

1. That for section 4 the following be substituted, namely :—

"4. (*1*) Where a share of a dwelling-house belonging to an undivided family has been transferred to a person who is not a member of such family and such transferee sues for partition, the Court shall, if any member of the family being a shareholder shall undertake to buy the share of such transferee, make a valuation of such share in such manner as it thinks fit and direct the sale of such share to such shareholder and may give all necessary and proper directions in that behalf.

Partition suit by transferee of share in dwelling-house.

"(*2*) If, in any case described in sub-section (*1*), two or more members of the family being such shareholders severally undertake to buy such share, the Court shall follow the procedure prescribed by sub-section (*2*) of the last foregoing section."

2. That in section 5, for the words "or an undertaking to buy given" the words "or an undertaking, or application for leave to buy, may be given or made" be substituted; and that after the word "undertaking", in line 8, the words "or application" be inserted.

3. That the following be inserted in section 6 as sub-section (*1*), namely :—

"(*1*) Every sale under section 2 shall be subject to a reserved bidding, and the amount of such bidding shall be fixed by the Court in such manner as it may think fit and may be varied from time to time.

4. That the present sub-sections (*1*) and (*2*) of the same section be re-numbered (*2*) and (*3*); and that in sub-section (*2*) as so re-numbered for the words "On any sale under this Act" the words "On any such sale" be substituted.

5. That the words "Save as hereinbefore provided" be inserted at the beginning of section 7.

He said that, with the exception of two of the amendments, the rest were all purely verbal, and he did not think it necessary to trouble the Council with merely verbal amendments. One of these two comparatively important amendments was contained in section 4, in which it was proposed to add the words "being a shareholder" after the words "any member of the family". He was indebted for the suggestion to His Honour the Lieutenant-Governor of Bengal. Under the section, as it originally stood, it might have been argued that the privilege was not confined to those members only of the family who still retained an interest in the family dwelling-house, but might be claimed even by a person who, although he might continue to be a member of the family, had ceased to have anything whatever to do with the family house. The section now made it quite clear that the privilege could only be exercised by a member of the family who still owned a share in the property.

The next amendment of any importance was the addition which it was proposed to make to section 6. That addition had been already discussed, and it was unnecessary for him to say anything about it, as it seemed to be generally acceptable to Hon'ble Members. But he ought to explain why nothing of this kind found a place in the Bill as it was submitted by the Select Committee. Section 6 of the Bill provides that, in the case of property sold under a decree in Bombay, Madras or Bengal, the Court should observe the procedure governing Registrars' sales in the High Courts, and they all knew that in the case of a sale by a Registrar of the High Court there must be a reserve price in the conditions of sale. As regards the mufassal, rules must be made by the High Court, and it was taken for granted that the High Court, under the authority conferred upon it by this section, would make rules on the lines of those regulating Registrars' sales.

He had, however, no objection to insert a section in the Bill expressly giving the right to the parties to claim a sale only at a reserved price.

The Motion was put and agreed to.

The Hon'ble DR. RASHBEHARY GHOSE moved that the Bill, as now amended, be passed. He said:—"In introducing the measure last year I pointed out the defective state of the present law relating to partition, and explained the manner in which it might be improved by giving the Court, in some exceptional cases, and under proper safeguards, a right to sell the property and to distribute the proceeds. It is unnecessary to repeat what I said on that occasion, and I propose now to deal only with some criticisms which have been levelled against the Bill, as, notwithstanding the favourable reception it has generally met with, the measure has not altogether escaped adverse comment. Nobody, I am glad to say, has seriously suggested that the present law is not susceptible of improvement, and the hostile criticisms directed against the Bill, which may be roughly divided into two categories, in a great measure neutralise one another. It has been said, on the one hand, that the numerous restrictions imposed on the Court are useless, if not mischievous, and that, where a partition cannot be properly made without injury to the property, the action of the Court ought to be left perfectly unfettered and not made dependent on the consent of any of the parties. On the other hand, it has been said that the power of sale is not adequately hedged round, and a suggestion has been made that compensation ought to be paid to the coparceners who are unwilling to part with their shares. To those critics who oppose some of the restrictions as altogether unnecessary, I should say that for obvious reasons sweeping innovations in matters of so much delicacy are always to be deprecated, and that we cannot proceed too cautiously. To those who object to the Bill as not sufficiently safeguarding the interests of the weaker shareholders, I would beg to point out, even at the risk of repetition, that it would be impossible for a powerful member under colour of this law to oppress the weaker shareholders, as the Court would never be able to direct a sale simply at the request of some of the parties, however large their interests might be. It must be satisfied that no partition by metes and bounds can be reasonably made, and also that a sale would be more beneficial not for one or even the larger number of the parties but for all the shareholders. It must also be remembered that, even when all the conditions essential to the exercise of the power exist, the Court would still have a discretion to direct or to refuse a sale—a discretion to be exercised, like all judicial discretion, on a consideration of the whole of the circumstances of the case. A request for sale made out of spite or from vexatious or other indirect motives would, I am sure, never be listened to by any Court of Justice, while the provision with regard to fixing a reserve price just introduced into the Bill would prevent the property from being sold at an inadequate price.

"I will now deal with the question of compensation which has been raised in the course of the discussion on the Bill, and it is the more necessary that I should do so as I find that some of my remarks in presenting the Report of the Select Committee have been misunderstood. I am reported to have said on that occasion—and no doubt correctly reported—that there can be no compulsory sales under this law. Now, I was then dealing with the recommendation of the Local Government, which I understood was based on the suggestion of the British Indian Association, that an additional 20 per cent. should be paid to the shareholder who is compelled to part with his share for the valuation price under section 3 of the Bill. That section, however, deals with the sale of the shares only of those who request a sale in favour of the other shareholders. The proposal of the Association therefore seemed to me to be based upon a misconception, and in saying that the Bill does not authorize a compulsory sale I evidently meant a forced sale by one shareholder to another. Indeed, if I might be permitted to say so, it never occurred to me that any question of compensation for disturbance, to use a familiar expression of the present day, could possibly arise in the case of a sale under section 2, which can only be directed when it is for the benefit of all the parties.

"I have now dealt at some length with the various criticisms which have been directed against the measure—criticisms for which I cannot say I was altogether unprepared. Whenever any change is proposed, whether in the sphere of legislation or in other spheres, there is sure to be some opposition. Some warning voice is sure to be raised when one ventures into untrodden paths, and we are invariably thankful for it, although sometimes compelled to disregard the warning. I am, however, glad to be able in the present instance in some measure to re-assure those who are always 'perplexed by fear of change.' Although the experience of the working of a particular law gained in other countries might sometimes be a very misleading guide, there is in the present case no reason to fear that the cautious innovation we are now making would be attended with any mischievous results, for we are not happily without some experience of the operation of a somewhat similar but far more trenchant law in this very country. In Chandernagore, and I believe also in the other French possessions in India, the far more drastic provision of the Code Napoleon has been long in force; and I am not aware, notwithstanding my enquiries on the subject, that the Hindu and Muhammadan citizens of the Republic have ever complained of its working. It has certainly not disintegrated joint families. It has not enabled the opulent members of a family to oppress their poorer relations. But it certainly has had the effect of preserving much property from ruin and of considerably reducing

legal expenses. I do not wish to be understood as promising any very wide-reaching benefits from the operation of the present measure. Indeed, it would be rash, if not unbecoming, on my part to do so. But of one thing I am confident, and that is that, if the law is properly worked, as I have not the least doubt it will be worked, my countrymen will not find their patrimony converted into lawyers' bills and the estate divided not among those who are entitled to it, but among those who are called on to assist them in its division.

"In conclusion, I have a word to say to those who seem to fear that the measure under discussion might possibly lead to the disintegration of the joint family, of which idyllic pictures have been sometimes drawn. I have nothing but the most fervent sympathy with those who cherish the institution, and will not therefore pause to enquire whether the portraits have not been occasionally painted without the shadows. I would only remind these gentlemen that suits for partition are by no means uncommon among coparceners, and that such suits are often fought with a bitterness which has become proverbial, ending not seldom in the ruin of the family. Those who think that any reasonable facilities given to coparceners for severing their interests would tend to the dissolution of the joint family system forget that a great lawsuit is a great evil, and that a protracted partition action is 'protracted woe.' Such men also greatly overrate the operation of positive law on society and betray a very imperfect appreciation of the strength and delicacy of the fibres and the play and interaction of the subtle forces which hold together the different members of that remarkable organization known as the joint Hindu family."

The Hon'ble SIR ALEXANDER MILLER said:—"I should not wish to intervene again in this matter, but I want to take this opportunity of counteracting, if I can, what seems to be a very widely-spread misapprehension as to the object and effect of this Bill. I will take the liberty of reading two paragraphs, both very short, from a well-known newspaper which has taken a great interest in this matter. They are as follows:—

'The case against the Partition Bill now pending before the Vicecoy's Legislative Council admits of being very briefly put. The right to claim partition is valuable, and the Bill takes it away, without sufficient reason, from a body of men who deserve special care and are of peculiar use to Government. That is all that we have to say against the revenue-officers.

"Then after some argument on the point it says:—

'The whole policy of the present landlord and tenant law in Bengal may be said to be to raise ordinary cultivators to the position of landowners, in the hope of extending

the economical and moral advantages which it has secured to those who occupy it; * * * * and it may fairly be asked whether one of the most important rights of a class so valuable is to be taken away, in order that the Courts may be relieved of occasional embarrassment. Fairly viewed, we think that the security of tenure of the smaller landlords in these and other provinces may be found to be more important than the case of a few revenue-officers.

"Now, I should be very sorry that the idea should get about, first, that this Bill in any way takes away the right of claiming a partition. It does nothing of the kind. Every owner of an undivided share has always had a right to claim a partition, and he has still that right. All the Bill says is this, that where the persons interested think that a partition would be more beneficially made by selling the property and dividing the money than by dividing the property in specie, and where the Court agrees with them, then the partition will take place in that particular form. And as for the statement that this is a Bill to contribute to the ease of the revenue-officers, the revenue-officers have nothing whatever to say to it, and, so far as the collection of revenue is concerned, it would require a completely different proceeding, and one which is very well known, to effect any change in connection with revenue. I am told that the paper has itself corrected this mistake. I can only say thay I have not seen the correction in the *Statesman;* but I wish it particularly to be understood that we in no way propose to limit the right to partition of any one who asks for it, nor do we in any way limit the power of the Court to grant it."

The Motion was put and agreed to.

BILL TO LEGALIZE EXECUTION IN BRITISH INDIA OF CAPITAL SENTENCES PASSED BY BRITISH COURTS IN FOREIGN TERRITORY.

The Hon'ble SIR ALEXANDER MILLER moved that the Report of the Select Committee on the Bill to legalize in certain cases the execution within British India of capital sentences which have been passed by British Courts exercising in, or with respect to, foreign territory jurisdiction which the Governor General in Council has in such territory be taken into consideration.

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also moved that the following section be added to the Bill as amended by the Select Committee, namely:—

"3. The tribunals mentioned in the proviso to section 19 of the Prisoners Act, 1871, shall be deemed to be British Courts for the purposes of this Act:

Certain tribunals to be deemed British Courts under Act.

"Provided that every warrant issued under this Act by any such Court shall be signed by that one of the presiding Judges thereof who is the 'officer of Government' mentioned in such proviso."

He said:—"When this Bill was before the Select Committee there were a good many proposals for amending the Prisoners Act of 1871 in connection with it, but the Select Committee came to the conclusion, and I think rightly, that this was a separate matter of its own and that the desired amendments in the Prisoners Act should be made, if at all, separately; but it has since been pointed out by the Foreign Department that we are legislating for the execution of sentences of certain British Courts, and that there are certain courts which might or might not be considered to be British Courts. These are courts which sit under the authority either of the Governor General in Council or of the Native Chiefs, one of the presiding Judges of which is an officer of Government, and it is obvious that there may very probably be some of these courts acting under the particular circumstances for which this Bill was introduced—that is to say, that such a court may very well sit in a State where there is no proper or convenient arrangement for carrying out a sentence of death: the Foreign Department has asked that we should definitely provide for these cases in this Bill, not that we should alter the Prisoners Act in any respect, but that we should say that, for the purposes of this Act, these courts should be treated as British Courts. That seems to me to be reasonable, and therefore I have consented to the proposal that the section which I have just now read to the Council should be added to the Bill."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill, as now amended, be passed.

The Motion was put and agreed to.

PETIT BARONETCY BILL.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill for settling the Endowment of the Baronetcy conferred upon Sir Dinshaw Manockjee Petit, of "Petit Hall", in the Island of Bombay, be taken into further consideration. He said:—"It will be in the memory of the Council that this Bill was taken into consideration some three weeks or a month ago, and that it was postponed at the instance of my hon'ble friend Sir Griffith Evans in order that certain objections which had been taken to sections 11 and 12 of the Bill as they then stood should be referred back to the Government of Bombay. They have been so referred back, and proposals have been made by Sir Dinshaw Petit and accepted by the Government of Bombay which I hope will also be accepted by this Council as a sufficient solution of the difficulty, and I now ask that the Bill be taken into consideration in order that those amendments may be laid before the Council."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER then moved that the following amendments be made in the Bill, namely:—

1. That the following proviso be added to section 11, namely:—.

> "Provided always that the total amount of the stocks, funds and securities for the time being subject to the trusts of this Act shall at no time exceed fifty lakhs of rupees."

2. That section 12 be omitted and the following sections re-numbered accordingly, and that the reference to section 17 at the end of section 12 as so re-numbered be altered to section 16.

3. That in section 14, for the words "or any of them", in line 7, the words "concerning the said Mansion-house and premises" be substituted.

He said:—"I will take these amendments not exactly in the order in which I have read them, and will begin with the second of them, namely, that 'section 12 be omitted and the following sections re-numbered accordingly'. Section 12 of the Bill was the one which enabled further lands to be brought into settlement with the consent of the Local Government, and the main opposition was taken to that section. It was the section which my hon'ble friend Dr. Rashbehary Ghose moved should be omitted on a former occasion. Sir Dinshaw Petit is willing that it should be omitted, and I now, with the consent of everybody, propose that it should be excluded altogether from the Bill.

"The third amendment is 'that in section 14, for the words "or any of them" in line 7, the words "concerning the said Mansion-house and premises" be substituted', and is simply consequential upon that omission of section 12 which I have just moved. The reference to "any" of the trusts of this Act was necessary at a time when it was possible that there might be trusts of the Act applying to real estates brought in subsequently which that section was intended to cover. Now that it is clear that real estates are not intended to be brought in subsequently, it is necessary to show that section 14 will apply only to the Mansion-house and premises which are expressly settled by the Bill and not to any other real estate.

"As to section 11, which related to stocks, funds and securities, a compromise has been effected which I hope will be accepted. I myself could never understand the grounds on which the rule against perpetuities (which it will be remembered is merely a Judge-made rule, and not statutory law) was extended to personal estate. It was very properly made to avoid the possible effect of the Statute of Uses on settled estates, and the rule was so framed as to leave the maximum limitations of land under the Statute the same as they had been before the Statute was passed. Why that was extended to money I never could make out. But the rule has been in existence too long, and has been too persistently acted upon, to be shaken now, and it must be taken to be settled law in England, followed in India, and clearly without legislative authority it is no more possible to settle money in perpetuity than it is land. It is now proposed that, instead of giving Sir Dinshaw Petit and his successors the power of adding as much money to this perpetual settlement as they please, a limit should be put whereby the total amount shall not exceed 50 lakhs; that is, something less than double the amount which is immediately to be settled, and I do not think that if there is to be a limit to be put at all that this is an extravagantly high limit, and I hope that the Council will be satisfied that the limit is a sufficient one. You will remember that the odd 21 lakhs or so cannot be settled without the consent of the Local Government."

The Hon'ble SIR GRIFFITH EVANS said that he did not propose to trouble the Council with the question whether it would be desirable to alter the existing law so as to enable the enormous fortunes sometimes accumulated in money and stocks to be tied up for ever. He thought that the general feeling of most people was that it was far better that the fetter of the dead hand should not be allowed to paralyse the living in their dealings with the commercial capital of the world. The question before them really was simply this. There

were certain exceptional circumstances in which it had been the practice to tie up property for the purpose of the maintenance of certain dignities, and that class of exception was one which he need not say he in common with others approved of when it was acted upon, as in this case, under proper safeguards; but it had been usual hitherto that the sum should be fixed and should be ascertained and forthcoming at the time when it was settled. Of course, so long as the limit was fixed by legislative power he did not see that there was any insuperable objection to allowing further money to be brought into the settlement, but he wished merely to say that the other had been the usual rule, and that no case had been shown by Sir Dinshaw Petit why an exception should be made in his case and why further money should be put in; but at the same time, so long as a limit was fixed by legislative authority, he could not see that there was any great objection to it if they choose to do it, the only consideration being that it was not easy to see why an exceptional course should be pursued in this particular instance.

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill, as now amended, be passed.

The Motion was put and agreed to.

CODE OF CIVIL PROCEDURE AND INDIAN LIMITATION ACT, 1877, AMENDMENT BILL.

The Hon'ble DR. RASHBEHARY GHOSE moved for leave to introduce a Bill to amend the Code of Civil Procedure and the Indian Limitation Act, 1877. He said:—"As mentioned in the Statement of Objects and Reasons, land when sold in execution of decree seldom realises in this country anything like a fair price. Various explanations have been given to account for this evil, the wide existence of which cannot be disputed by any one familiar with the practical administration of the execution sections in the law. The uncertainty of the title, which there is generally no proper means of examining, the non-service or irregular service of the notices prescribed by the law, the absence of any reserve price in the conditions of sale, the difficulties frequently thrown in the way of the purchaser when he seeks to obtain possession, the litigation which generally follows the sale, have been variously assigned as creating a state of things hurtful alike to the interests of the debtor and his creditor and furnishing endless

opportunities for unlawful gain to speculative purchasers—a class who thrive at the expense both of the honest creditor who is only anxious to recover his debt, and the debtor whose property is frequently sold at an enormous sacrifice, and which it must be confessed he sometimes tries to get back by means which are neither honest nor well-advised. It is true we are sometimes told that the difficulties of a creditor, according to a famous saying of Sir Barnes Peacock, only begin after he has recovered his judgment. But I need hardly say that all judgment-debtors are not dishonest, and that some of them at least are more sinned against than sinning. Improvidence, it is true, is the badge of all their tribe, but there is a general impression, not perhaps wholly unfounded, that they are not seldom made to pay too dearly for their want of foresight and business habits. I need hardly add that the compulsory sale of land for the payment of debts is not generally regarded with much favour by the people, and the way in which it is frequently carried out is certainly not likely to reconcile them to such sales. The moment the hammer falls and the property is knocked down to the highest bidder, the gates—I will not say of justice, but of mercy—are shut on the unfortunate owner. He may nor redeem the land at any price, although he can apply to set the sale aside under a provision in the Code which is to him what the straw in the proverb is to the drowning man and is about equally useful. As a partial remedy for this grave evil, the framers of the Bengal Tenancy Act for the first time introduced a provision enabling a tenant to redeem his property by paying into Court within a certain period the amount of the judgment-debt, and in addition a sum equal to five per cent. of the purchase-money to be paid as a bonus to the purchaser. This provision seems to me to be a very equitable one, as the creditor gets his money and the purchaser a bonus of five per cent. on his purchase-money. The Select Committee on the Tenancy Act observe in their report :—

'Applications under section 311 of the Code of Civil Procedure to set aside sales cause expense and annoyance to the decree-holder and auction-purchaser. It is believed that they are often instituted merely with a view to recovering the tenure or holding which had been sold, and it is anticipated that, if a judgment-debtor is allowed to recover his property by depositing after the sale the amount decreed against him, the number of these applications will be considerably diminished.'

" Experience has amply justified the anticipations of the Select Committee by whom the provision was introduced into the Bengal Tenancy Act, and landlords have been enabled by it to recover their rents and tenants to redeem

their holdings when they have been sold at an under-value, and I do not believe that it has had the effect of deterring intending purchasers in any case. It is now proposed to extend this boon to all judgment-debtors, and I do not think I should be wrong in saying also to all execution-creditors, by adding a similar section to the Code of Civil Procedure. This has been done by section 2 of the Bill. Section 3 is only supplementary to the addition made by section 2, and the slight amendment of the Indian Limitation Act in section 4 has been rendered necessary for the purpose of prescribing the period within which the money must be paid in order to entitle the debtor to redeem his property.

"In conclusion I am bound to say that it is a great and unexpected satisfaction to me to find that the learned Judges of the High Court approve of the proposal to extend the provisions of section 174 of the Tenancy Act to other compulsory sales, as appears from the communication read to us by His Honour the Lieutenant-Governor of Bengal."

The Hon'ble SIR PHILIP HUTCHINS said:—"As I understand, the effect of the proposed Bill will be to give a *locus pœnitentiæ* to a person whose immoveable property has been sold in execution of a decree, and enable him to redeem it within a month by paying off the decree and compensating the purchaser with a bonus of what may be regarded as a year's interest on the purchase-money. I think the Government of India will welcome any measure which has for its object the mitigation of the rigidity of the law of sale for debt and may tend to prevent the dispossession of an indebted agriculturist. The Council are aware that a Commission sat last year to enquire into the working of the Dekkhan Agriculturists' Relief Act, and the Government of India are only waiting for the Bombay Government's views on the Commissioners' report to again take up the whole subject. So far as the remedies to be applied have been formulated, they are quite consistent with the proposals now made by Dr. Rashbehary Ghose. Meanwhile it will be a great advantage to us that these proposals should be considered by Local Governments and the public, and that we should be made aware how far they are generally accepted."

The Motion was put and agreed to.

The Hon'ble DR. RASHBEHARY GHOSE also introduced the Bill.

1893.] [*Dr. Rashbehary Ghose.*]

The Hon'ble DR. RASHBEHARY GHOSE also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 16th March, 1893.

J. M. MACPHERSON,
Offg. Secretary to the Government of India,
Legislative Department.

CALCUTTA;
The 17th March, 1893.

Government of India Central Printing Office.—No. 450 L. D.—17-3-93.—316.—G. C. S.

APPENDIX A.

The Number and Annual Salaries of Officers on Active Service in India on the 31st March, 1890.

	Rs. 1,000 to less than Rs. 2,500.		Rs. 2,500 to less than Rs. 5,000.		Rs. 5,000 to less than Rs. 10,000.		Rs. 10,000 to less than Rs. 20,000.		Rs. 20,000 to less than Rs. 30,000.		Rs. 30,000 to less than Rs. 40,000.		Rs. 40,000 to less than Rs. 50,000.		Rs. 50,000 to less than Rs. 60,000.		Rs. 60,000 to less than Rs. 80,000.		Rs. 80,000 to less than Rs. 1,00,000.		Rs. 1,00,000 and upwards.		Total.	
	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.
		R		R		R		R		R		R		R		R		R		R		R		R
Civil Department—																								
Including Military Officers in Civil employ other than those in the Public Works Department.																								
Europeans	935	16,41,967	775	29,59,545	1,207	88,30,580	713	97,53,309	300	72,45,186	125	40,89,975	46	20,34,004	7	3,70,000	13	8,81,760	1	86,000	6	8,16,000	4,128	3,87,09,216
Eurasians	1,088	17,81,776	382	13,38,168	96	6,50,053	8	1,04,626	2	46,500	...	...	...	...	...	...	...	...	...	...	...	...	1,576	39,21,123
Natives	6,203	99,30,766	1,573	56,43,034	421	29,05,967	45	5,82,509	4	95,100	...	...	6	2,70,000	...	...	...	...	...	...	...	...	8,252	1,94,27,376
Military Department (Army)—																								
Excluding officers employed with Civil or Public Works Department.																								
Europeans	2,222	34,88,720	1,960	73,61,068	1,699	1,36,98,676	749	1,04,43,416	81	19,09,818	9	2,83,198	12	4,01,552	...	...	2	1,32,000	...	...	1	1,00,000	6,735	3,78,18,448
Eurasians	336	5,27,941	84	2,87,196	22	1,39,928	1	11,427	...	...	...	...	...	...	...	...	...	...	...	...	...	...	443	9,66,492
Natives	1,367	20,30,086	134	4,42,002	25	1,64,672	1	2,000	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1,527	26,48,760
Public Works Department—																								
Europeans (Civil)	871	15,12,126	461	16,32,067	516	37,56,668	164	20,38,415	6	98,868	2	60,000	...	...	...	...	...	...	...	...	...	...	2,020	90,98,144
,, (Military)	79	1,44,633	46	1,41,365	33	2,06,089	43	6,11,524	19	4,42,202	5	1,64,944	...	...	...	...	...	...	...	...	...	...	225	17,10,757
Eurasians	968	12,99,869	213	6,75,325	39	2,78,637	4	45,600	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1,244	22,99,431
Natives	1,176	17,25,221	188	5,95,461	85	5,37,840	3	33,600	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1,452	28,92,082
From Incorporated Local Funds—																								
Europeans	15	25,680	24	92,506	22	1,46,200	9	1,13,400	...	...	...	...	...	...	...	...	...	...	...	...	...	...	70	3,77,786
Eurasians	32	50,940	11	40,280	3	17,760	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	46	1,08,980
Natives	279	4,14,511	39	1,35,384	4	25,400	1	10,800	...	...	...	...	...	...	...	...	...	...	...	...	...	...	323	5,86,095
Total	15,591	2,45,74,236	5,890	2,13,43,401	4,172	3,13,58,430	1,741	23,76,016	412	98,37,674	141	45,98,117	64	27,05,556	7	3,70,000	15	10,13,760	1	86,000	7	9,16,800	8,041	12,05,64,690

APPENDIX B.

Number and Annual Salaries of Officers on Active Service in India on the 31st March, 1890. Details by Provinces, Civil Department.

CIVIL DEPARTMENT, INCLUDING MILITARY OFFICERS IN CIVIL EMPLOY OTHER THAN THOSE IN THE PUBLIC WORKS DEPARTMENT.	Rs.1,000 TO LESS THAN Rs.2,500.		Rs.2,500 TO LESS THAN Rs.5,000.		Rs.5,000 TO LESS THAN Rs.10,000.		Rs.10,000 TO LESS THAN Rs.20,000.		Rs.20,000 TO LESS THAN Rs.30,000.		Rs.30,000 TO LESS THAN Rs.40,000.		Rs.40,000 TO LESS THAN Rs.50,000.		Rs.50,000 TO LESS THAN Rs.60,000.		Rs.60,000 TO LESS THAN Rs.80,000.		Rs.80,000 TO LESS THAN Rs.1,00,000.		Rs.1,00,000 AND UPWARDS.	
	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.
		Rs.		Rs.		Rs.		Rs.		Rs.		Rs.		Rs.		Rs.		Rs.		Rs.		Rs.
Europeans—																						
India	95	1,73,712	148	5,72,512	113	8,20,598	85	12,04,463	18	4,25,615	13	4,37,366	10	4,46,004	1	60,000	5	3,84,000	...	...	1	2,50,800
Central Provinces	31	49 800	29	1,14,523	53	3,89,520	31	4,37,034	12	2,61,400	4	1,36,600	...	...	1	56,000	...	...	...	...	...	...
Burma	150	2,77,084	101	3,66,600	168	11,72,566	71	9,24,619	25	5,25,200	12	3,82,700	...	...	...	...	...	...	1	86,000	...	...
Assam	11	20,700	18	70,044	39	2.94,897	17	2,08,100	9	1,94,600	1	33,000	...	...	1	50,000	...	...	...	...	...	...
Bengal	139	2,41,168	147	5,45,460	194	13,28.415	123	17,21,821	48	11,55,352	34	11,02,209	9	4,06,000	3	1,50,000	1	72,000	...	...	1	1,06,000
North-Western Provinces and Oudh	101	1,70,225	68	2,68.200	135	10.38,797	91	12,38,373	60	14,52,600	22	7.15,000	5	2,19,000	...	...	1	60,000	...	...	1	1,06,000
Punjab	66	1,24,056	46	1,74,876	117	8,51,734	90	12,45,660	38	9,15,444	11	3,72,000	6	2.52,000	...	...	...	..	...	...	1	1,06,000
Madras	101	1.78,476	33	3,32,255	164	12,50,388	100	13,33,663	44	11,66.951	11	3,57,100	7	3,12,000	1	54,000	3	1,82,880	...	...	1	1,20,000
Bombay	161	2,61,486	76	2,96,664	197	14,84,355	98	13,42,466	43	10,82,024	16	5,18,000	9	3,99,000	...	...	3	1,82,880	...	...	1	1,28,000
Post Office Department	80	1,45,260	59	2,18 376	27	1,90,260	7	97,200	3	66,000	1	36,000	..	...	...	...	...	...	...	...	...	...
TOTAL	935	16,41.967	775	29,59,545	1.207	88,30,580	713	97,53,399	300	72,45,186	125	40,89,975	46	20.34,004	7	3,70,000	13	8,81,760	1	86,000	6	8,16,800
Eurasians—																						
India	183	3,07,908	101	3,64,900	25	1,62.720	3	41,400	1	24,000	...	...		...	...	...	...	...	...	...	...	...
Central Provinces	35	52.140	14	47,904	3	22,200	1	14,400	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Burma	218	3,59,894	49	1,74 828	5	33,300	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Assam	3	4,692	2	6,120	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Bengal	179	2,97,306	67	2,31,720	25	1,59,504	2	24,000	1	22,500	...	...	...	...	...	...	...	...	...	...	...	...
North-Western Provinces and Oudh	82	1,31,676	31	1,14,000	7	51,600	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Punjab	46	76,024	18	64,980	8	53,040	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Madras	163	2.63,954	55	1,81,956	11	79,249	1	12,626	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Bombay	76	1,23,036	29	94,760	9	68,640	1	12,000	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Post Office Department	103	1,60,146	16	57,000	3	19,800	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
TOTAL	1,088	17,81,776	382	13,38,168	96	6,50,053	8	1,04,626	2	46,500	..	...	...	...	...	...	...	...	...	...	...	...
Natives—																						
India	366	5,48,117	42	1,48,768	11	77,520	3	37,080	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Central Provinces	206	3,30,154	46	1,53,312	10	70.320	1	12,000	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Burma	687	10,87,430	64	2,23,360	18	1,17,840	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Assam	156	2,35,998	32	1,21,440	8	51,600	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Bengal	1,395	23,23.760	525	19,52,616	138	9,76,752	19	2,49,600	3	67,200	...	...	3	1,35,000	...	...	...	...	...	...	...	...
North-Western Provinces and Oudh	760	12,34,745	210	7,50,193	72	4,97,232	4	55,200	...	...	...	...	1	45,000	...	...	...	...	...	...	...	...
Punjab	530	8.80,851	142	4,79,206	40	2,52,948	4	45,624	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Madras	792	12,50,730	256	8,81,487	43	2,90,363	6	75,802	...	...	...	...	1	45,000	...	...	...	...	...	...	...	...
Bombay	908	14,79,121	224	5,12,558	75	5,33,932	6	79,603	1	27,900	...	...	1	45,000	...	...	...	...	...	...	...	...
Post Office Department	403	5,59,860	32	1,15,104	6	36,960	2	27,600	...	...	...	...	...	...	...	...	...	...	...	...	...	...
TOTAL	6,203	99,32,766	1,573	56,43,034	421	29,05,967	45	5,82,509	4	95,100		...	6	2,70,000	...	...	...	...	...	...	...	...
Total—																						
India	644	10,29,737	291	10,86,180	149	10,69,838	91	12,82,943	19	4,49,615	13	4,37,366	10	4,46,004	1	60,000	5	3,84,000	...	...	1	2,50,800
Central Provinces	272	4,32,094	89	3,15,744	66	4,32,040	33	4,63,434	12	2,61,400	4	1,36,600	...	...	1	56,000	...	...	...	...	...	...
Burma	1,055	17,24,408	214	7,69,788	191	13,23,706	71	9,24,619	25	5,25,200	12	3,82,700	...	...	...	...	...	...	1	86,000	...	...
Assam	170	2,61,390	52	1,97,604	47	3,46,497	17	2,08,100	9	1,94,600	1	33,000	...	...	1	50,000	...	...	...	...	...	...
Bengal	1,713	28,62.234	739	27,29,796	357	24,64,671	144	19,95,421	52	12,45,052	34	11,02,209	12	5,41,000	3	1,50,000	1	72,000	...	...	1	1,06,000
North-Western Provinces and Oudh	943	15,36,646	309	11,32,383	214	15,37,629	95	12,93,573	60	14,52,600	22	7,15,000	6	2,64,000	...	...	1	60,000	...	...	1	1,06,000
Punjab	642	10.80,931	206	7,19,062	165	11,57,772	94	12,91,234	38	9,15,444	11	3,72,000	6	2,52,000	...	...	...	...	...	...	1	1,06,000
Madras	1,056	16,98,160	394	13,95,728	218	16,20,500	107	14,22,291	44	11,66,951	11	3,57,100	8	3,57,000	1	54,000	3	1,82,880	...	...	1	1,20,000
Bombay	1,145	18,63,643	329	12,03,982	281	20,86,927	105	14,34,069	44	11,09,924	16	5,18,000	10	4,44,000	...	...	3	1,82,880	...	...	1	1,28,000
Post Office Department	586	8,65,266	107	3,90,480	36	2,47,020	9	1,24,800	3	66,000	1	36,000	...	...	...	...	...	...	...	...	...	...
GRAND TOTAL	8,226	1,33,54,509	2,730	99,40,747	1,724	1,23,86,600	766	1,04,40,534	306	73,86,786	125	40,89,975	52	23,04,004	7	3,70,000	13	8,81,760	1	86,000	6	8,16,800

APPENDIX B—*continued.*

Number and Annual Salaries of Officers on Active Service in India on the 31st March, 1890, paid from Incorporated Local Funds. Details by Provinces, Civil Departments—continued.

Civil Department, including Military Officers in Civil employ other than those in the Public Works Department.	Rs. 1,000 to less than Rs. 2,500.		Rs. 2,500 to less than Rs. 5,000.		Rs. 5,000 to less than Rs. 10,000.		Rs. 10,000 to less than Rs. 20,000.		Rs. 20,000 to less than Rs. 30,000.		Rs. 30,000 to less than Rs. 40,000.		Rs. 40,000 to less than Rs. 50,000.		Rs. 50,000 to less than Rs. 60,000.		Rs. 60,000 to less than Rs. 80,000.		Rs. 80,000 to less than Rs. 1,00,000.		Rs. 1,00,000 and upwards.	
	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.
Europeans—		R		R		R		R		R		R		R		R		R		R		R
India	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Central Provinces	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Burma	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Assam	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Bengal	4	6,120	7	24,600	5	37,200	6	68,400	...	...	...	...	...	...	...	...	...	...	...	...	...	...
North-Western Provinces and Oudh	1	1,200	2	8,400	...	...	3	45,000	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Punjab	8	15,660	6	20,880	2	11,280	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Madras	1	1,200	7	30,360	14	90,000	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Bombay	1	1,500	2	8,266	1	7,800	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Post Office Department	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
TOTAL	15	25,680	24	92,506	22	1,46,280	9	1,13,400	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Eurasians—																						
India	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Central Provinces	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Burma	2	2,400	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Assam	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Bengal	1	1,800	2	6,600	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
North-Western Provinces and Oudh	5	12,000	4	17,400	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Punjab	1	1,200	3	10,280	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Madras	22	32,340	2	6,000	3	17,760	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Bombay	1	1,200	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Post Office Department	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
TOTAL	32	50,940	11	40,280	3	17,760	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Natives—																						
India	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Central Provinces	1	1,200	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Burma	22	32,580	1	3,300	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Assam	1	1,200	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Bengal	82	1,11,583	23	84,140	4	25,400	1	10,800	...	...	...	...	...	...	...	...	...	...	...	...	...	...
North-Western Provinces and Oudh	121	1,94,076	11	35,700	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Punjab	13	16,840	2	5,280	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Madras	35	51,212	1	2,520	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Bombay	2	2,220	1	4,444	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Post Office Department	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
TOTAL	277	4,10,911	39	1,35,384	4	25,400	1	10,800	...	...	...	...	...	...	...	...	...	...	...	...	...	...
TOTAL—																						
India	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Central Provinces	1	1,200	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Burma	24	34,980	1	3,300	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Assam	1	1,200	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Bengal	87	1,19,503	32	1,15,340	9	62,600	7	79,200	...	...	...	...	...	...	...	...	...	...	...	...	...	...
North-Western Provinces and Oudh	127	2,07,276	17	61,500	...	...	3	45,000	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Punjab	22	33,700	11	36,440	2	11,280	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Madras	58	84,752	10	38,880	17	1,07,760	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Bombay	4	4,920	3	12,710	1	7,800	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Post Office Department	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
GRAND TOTAL	324	4,87,531	74	2,68,170	29	1,89,440	10	1,24,200	...	...	...	...	...	...	...	...	...	...	...	...	...	...

APPENDIX C.

Number and Annual Salaries of Officers on Active Service in India on the 31st March, 1890. Details by Provinces, Public Works Department.

Public Works Department.	Rs1,000 to less than Rs2,500.		Rs2,500 to less than Rs5,000.		Rs5,000 to less than Rs10,000		Rs10,000 to less than Rs20,000.		Rs20,000 to less than Rs30,000.		Rs30,000 to less than Rs40,000.		Rs40,000 to less than Rs50,000.		Rs50,000 to less than Rs60,000.		Rs60,000 to less than Rs80,000.		Rs80,000 to less than Rs1,00,000.		Rs1,00,000 and upwards.	
	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.	No.	Amount.
		Rs		Rs		Rs		Rs		Rs		Rs		Rs		Rs		Rs		Rs		Rs
Europeans (Civil)—																						
India	690	11,87,617	266	9,44,096	178	13,53,669	51	6,68,770	...	...	1	30,000	...	...	...	...	...	...	...	...	...	...
Central Provinces	10	17,112	12	44,100	12	93,000	3	40,800	1	24,000	...	...	...	...	...	...	...	...	...	...	...	...
Burma	34	57,636	24	88,586	34	2,63,180	13	1,60,200	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Assam	8	14,040	6	21,480	9	66,600	1	11,400	1	21,600	...	...	...	...	...	...	...	...	...	...	...	...
Bengal	2	3,600	13	45,512	46	3,56,000	11	1,51,084	1	24,000	...	...	...	...	...	...	...	...	...	...	...	...
N.-W. Provinces and Oudh	6	11,400	10	39,000	43	3,04,200	13	1,73,400	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Punjab	13	21,984	20	75,576	59	4,41,980	13	1,69,200	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Madras	15	27,131	16	61,048	40	2,86,680	10	1,29,787	...	...	1	30,000	...	...	...	...	...	...	...	...	...	...
Bombay	4	6,520	14	46,654	52	3,14,297	10	95,919	3	29,268	...	...	...	...	...	...	...	...	...	...	...	...
Telegraph Department	89	1,63,096	80	3,65,815	43	2,97,102	39	4,37,675	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Total	871	15,13,136	461	16,32,067	516	37,56,668	164	20,38,415	6	98,868	2	60,000	...	...	...	...	...	...	...	...	...	...
Europeans (Military)—																						
India	9	19,020	10	34,140	12	70,324	8	1,19,719	3	66,366	1	32,922	...	...	...	...	...	...	...	...	...	...
Central Provinces	3	5,508	1	4,800	...	...	2	36,674	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Burma	13	19,907	9	28,370	1	26,847	4	45,631	1	24,522	...	...	...	...	...	...	...	...	...	...	...	...
Assam	...	...	1	3,000	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Bengal	3	6,812	...	...	1	6,600	4	63,314	...	...	1	32,922	...	...	...	...	...	...	...	...	...	...
N.-W. Provinces and Oudh	9	19,301	6	18,840	6	41,829	4	53,983	5	1,21,125	...	...	...	...	...	...	...	...	...	...	...	...
Punjab	1	2,400	4	13,200	2	15,064	5	66,567	3	66,940	1	32,922	...	...	...	...	...	...	...	...	...	...
Madras	19	38,234	8	24,240	7	39,720	10	1,60,252	5	1,17,100	...	...	...	...	...	...	...	...	...	...	...	...
Bombay	5	7,277	5	9,135	1	5,700	5	61,974	2	43,149	1	30,178	...	...	...	...	...	...	...	...	...	...
Telegraph Department	17	26,104	2	5,640	...	...	1	18,610	...	...	1	36,000	...	...	...	...	...	...	...	...	...	...
Total	79	1,44,633	46	1,41,365	33	2,06,089	43	6,11,524	19	4,42,202	5	1,64,944	...	...	...	...	...	...	...	...	...	...
Eurasians—																						
India	360	5,79,163	61	1,98,001	4	28,800	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Central Provinces	13	21,888	2	5,640	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Burma	42	65,844	15	44,808	4	26,160	1	10,800	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Assam	1	1,080	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Bengal	26	42,900	13	38,270	3	19,200	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
N.-W. Provinces and Oudh	28	49,860	14	45,960	20	1,51,200	3	34,800	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Punjab	4	7,320	3	9,708	2	13,800	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Madras	39	59,998	19	52,630	5	34,077	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Bombay	13	20,363	3	9,338	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Telegraph Department	462	4,51,465	84	2,70,790	1	6,600	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Total	988	12,99,869	213	6,75,325	39	2,78,637	4	45,600	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Natives—																						
India	402	5,90,034	39	1,28,719	16	1,05,240	1	10,800	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Central Provinces	21	36,952	3	8,760	3	18,000	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Burma	42	64,017	9	29,640	4	27,600	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Assam	29	46,164	6	19,560	4	27,600	1	11,400	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Bengal	132	1,93,184	29	86,568	13	87,000	1	11,400	...	...	...	...	...	...	...	...	...	...	...	...	...	...
N.-W. Provinces and Oudh	107	1,67,568	14	51,120	8	49,200	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Punjab	96	1,50,492	24	83,040	9	64,800	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Madras	101	1,41,439	18	57,646	5	34,800	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Bombay	125	1,84,170	40	1,12,948	22	1,18,160	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Telegraph Department	120	1,66,781	6	17,460	1	5,400	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Total	1,178	17,28,821	188	5,95,461	85	5,37,800	3	33,600	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Total—																						
India	1,461	23,85,914	376	13,05,956	210	15,58,033	60	7,99,289	3	66,366	2	62,922	...	...	...	...	...	...	...	...	...	...
Central Provinces	50	80,460	18	53,540	15	1,11,000	5	72,474	1	24,000	...	...	...	...	...	...	...	...	...	...	...	...
Burma	131	2,07,404	57	1,91,404	43	3,43,787	18	2,16,631	1	24,522	...	...	...	...	...	...	...	...	...	...	...	...
Assam	36	57,684	13	44,040	13	94,200	2	22,800	1	21,600	...	...	...	...	...	...	...	...	...	...	...	...
Bengal	163	2,46,496	54	1,70,350	63	4,48,800	16	2,25,778	1	24,000	1	32,922	...	...	...	...	...	...	...	...	...	...
N.-W. Provinces and Oudh	150	2,48,129	44	1,54,920	77	5,46,429	20	2,67,083	5	1,21,125	...	...	...	...	...	...	...	...	...	...	...	...
Punjab	114	182,196	51	1,81,524	72	5,34,429	18	2,35,767	3	66,940	1	32,922	...	...	...	...	...	...	...	...	...	...
Madras	174	2,68,800	61	1,95,564	57	3,95,277	20	3,00,039	5	1,17,100	1	30,000	...	...	...	...	...	...	...	...	...	...
Bombay	147	2,20,330	62	1,78,265	75	4,38,157	15	1,47,893	5	72,417	1	30,178	...	...	...	...	...	...	...	...	...	...
Telegraph Department	688	8,08,486	172	5,59,005	45	3,09,102	40	4,56,485	...	...	1	36,000	...	...	...	...	...	...	...	...	...	...
GRAND TOTAL	3,116	46,85,449	909	30,44,218	673	47,79,194	214	27,29,139	25	5,41,070	7	2,24,944	...	...	...	...	...	...	...	...	...	...

APPENDIX D.

Statement showing the Sums advanced under the **Land Improvement** *Loans Act, XIX of 1883, in each Province during the five years 1886-87 to 1890-91, and the remissions of such advances granted during the same period.*

Year		Provinces.												
		Madras.	Bombay.	Sindh.	Bengal.	N.-W.P.	Oudh.	Punjab.	Central Provinces.	Berar.	Assam.	Burma.	Ajmere.	Coorg.
		R	R	R	R	R	R	R	R	R	R	R	R	R
1886-87	Advanced	7,820	58,900	8,600	28,900	49,800	11,900	2,69,800	22,700	9,425	...	...	400	....
	Remitted	1,030	350	...	...	...	...	...	...	...	...	...	...	...
1887-88	Advanced	79 900	28,500	3,250	30,100	1,01,500	26,000	3,07,200	15.100	4,450	250	...	7,500	....
	Remitted	1,100	...	...	...	...	...	...	...	...	...	...	...	...
1888-89	Advanced	1,39,900	48,700	3,600	38,300	97,900	23,800	2,28,300	18,600	8,300	...	...	4,200	...
	Remitted	1,060	...	...	1,300	...	...	...	...	...	...	...	...	...
1889-90	Advanced	1,35,200	67,000	12,100	80,500	68,800	44,200	2,73,200	35,700	6,550	90	...	3,900	...
	Remitted	...	...	...	...	...	...	200	...	...	...	...	...	...
1890-91	Advanced	2,27,900	1,43,800	12 300	21.300	68,300	42.400	2,40,200	38,800	15,420	...	...	45,400	...
	Remitted	...	...	...	...	..	...	810	...	...	...	...	...	...
April 1891 to August 1892.	Loans under Acts XIX of 1883 and XII of 1884 jointly	29,75,000	7,02,000	...	1,43 539	...	...	...	...	...	...	4,26,554	5,17,000	37,300

ABSTRACT.

Year.	Total advances.	Total remitted.	Remarks.
	R	R	
1886-87	4,68,245	1,380	
1887-88	6,03,750	1,100	
1888-89	6,11,600	2,360	
1889-90	7,27,240	200	
1890-91	8,55,820	810	

APPENDIX E.

Statement showing advances made under the **Agriculturists** *Loans Act during the years 1886-87 to 1890-91, and remissions of such advances granted during the same period.*

		Madras.	Bombay.	Bengal.	N.-W. P.	Oudh.	Punjab.	Central Provinces.	Burma.	Assam.	Berar.	Coorg	Ajmere.	TOTAL.
1886-87	Advanced	24,500	11,300	8,800	1,81,800	52,100	26,500	36,900	...	...	...	...	...	2,41,900
	Remitted	...	350	...	...	...	...	...	...	...	...	...	...	350
1887-88	Advanced	30,600	9,200	17,400	1,31,500	42,700	35,700	26,000	...	...	...	...	1,100	2,94,200
	Remitted	70	1,400	100	...	...	...	...	...	...	...	...	...	1,570
1888-89	Advanced	59,200	18,100	1,34,900	1,18,700	59,000	32,200	45,300	5,100	60	...	10,000	4,700	4,87,260
	Remitted	...	70	380	...	...	...	...	...	...	...	...	...	450
1889-90	Advanced	1,40,500	12,000	2,20,900	1,67,500	1,03,700	38,900	1,07,400	1,15,400	100	...	10,400	2,400	9,19,200
	Remitted	...	...	400	...	...	...	...	...	...	...	...	...	400
1890-91	Advanced	43,600	21,500	1,56,200	5,20,500*	1,35,300	76,800	89,800	1,64,300	460	...	...	500	12,08,760
	Remitted	...	...	1,000	...	...	...	...	...	...	...	...	...	1,000

* Represents advances for 18 months owing to the year of report having been changed.

ABSTRACT.

Year.	Advanced.	Remitted.
	R	R
1886-87	2,41,500	350
1887-88	2,94,200	1,570
1888-89	4,87,260	450
1889-90	9,19,200	400
1890-91	12,08,760	1,000

BENGAL SECRETARIAT LIBRARY

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Acts of Parliament 24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14.

The Council met at Government House on Thursday, the 16th March, 1893.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G., G.M.S.I., G.M.I.E., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
His Excellency the Commander-in-Chief, V.C., G.C.B., G.C.I.E., R.A.
The Hon'ble Sir P. P. Hutchins, K.C.S.I.
The Hon'ble Sir D. M. Barbour, K.C.S.I.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. L. Mackay, C.I.E.
The Hon'ble Dr. Rashbehary Ghose.
The Hon'ble Palli Chentsal Rao Pantulu, C.I.E.
The Hon'ble Sir G. H. P. Evans, K.C.I.E.
The Hon'ble Fazulbhai Vishram.
The Hon'ble C. C. Stevens.
The Hon'ble J. Buckingham, C.I.E.
The Hon'ble A. S. Lethbridge, M.D., C.S.I.
The Hon'ble J. Woodburn, C.S.I.

CONSTITUTION OF LEGISLATIVE COUNCILS.

His Excellency THE PRESIDENT said:—"When, upon a recent occasion, I made a statement to the Council with regard to the procedure to be adopted under the Indian Councils Act of last year, in so far as that procedure had to do with the right of interpellation and of financial discussion, I said that it was out of my power, for the moment, to make any announcement as to the regulations affecting the nomination of Additional Members.

"I am glad to inform the Council that the difficulty which I then mentioned as having prevented the Secretary of State from giving his consent to our proposals, and which I shall presently explain, has been satisfactorily surmounted,

and I am now able to tell the Council how the matter stands, both in regard to the Local Councils and in regard to that which I have now the honour of addressing.

"It is, I think, important that we should have a clear idea at the outset of the extent to which these questions have been taken out of our discretion by the terms of the Act, and how far we are free to deal with them by means of the Rules which I am about to lay upon the table.

"In the first place, the maximum number of Additional Members has been, in all cases, fixed by the Act. In Madras and Bombay the present strength is represented by a minimum of 5 and a maximum of 9, including the Advocate-General. Under the Act, there is to be a minimum of 9 and a maximum of 21. The condition laid down in the Act of 1861, that one-half of the Additional Members must be non-officials, still remains in force.

"In the Bengal Legislative Council the present maximum number of Councillors is 12, and this figure is raised by the new Act to 20, subject to the old condition that one-third of the Additional Members must be non-officials.

"In the North-Western Provinces the present strength of Additional Members is 9, and the maximum under the Act is 15, of whom, as in the case of Bengal, one-third must be non-officials.

"These maximum numbers were fixed after much consultation with Her Majesty's Government and with the Local Governments concerned. It is, I think, clear that no one can take upon himself to lay down confidently that, in the case of legislative bodies like these, any one particular number is exactly appropriate. Our communications with the Local Governments, to which I have just referred, disclosed a certain amount of variety of opinion, although the divergence was within comparatively narrow limits. I may, however, say that when the question was first taken up—and Hon'ble Members will recollect that this Bill has been before Parliament for at least three sessions—we found a complete consensus of opinion on the part of all the Local Governments consulted in favour of the view that the Councils might, with advantage, be enlarged, and that it was desirable to increase their authority, and to give them a constitution under which they would be able to afford to the Provincial Governments a larger measure of assistance and support.

"There was another point upon which the consensus of opinion of the Local Governments was equally noticeable. It was felt by all of them that what was desirable was to improve the present Councils rather than to attempt to put in their place bodies comprising a large number of persons, and possessing the attributes of Parliamentary assemblies of the European type. It is a little remarkable that, although the measure was, as I said just now, during three successive sessions before Parliament, no serious attempt was, to the best of my belief, made to substitute largely increased numbers for those which are mentioned in the present Act and in the Bills introduced in preceding sessions.

"Another provision of the Act which requires to be specially considered, in addition to those which have reference to the numbers of the Additional Members, is the provision which has reference to the manner in which they are to be nominated. It is laid down in section 1 (*4*) that the 'Governor General in Council may from time to time, with the approval of the Secretary of State in Council, make regulations as to the conditions under which such nominations, or any of them, shall be made by the Governor General, Governors and Lieutenant-Governors respectively, and prescribe the manner in which such regulations shall be carried into effect.'

"It is under this section that the regulations to which I am about to refer have been made.

"Now, it will not escape the attention of the Council that, under the words which I have quoted, the responsibility for these nominations remains with the Governor General and the heads of the Local Governments concerned, and the Secretary of State, in forwarding the Act to us officially, was careful to point out that 'the ultimate nominating authority still rests with those to whom it was entrusted by the Statute of 1861, and that the responsibility attaching to the careful exercise of this authority by no means diminishes as the number of non-official Members increases, and as the scope of their attributes is enlarged.'

"It was, however, clearly understood, throughout the discussion of the measure, that, subject to this ultimate responsibility, the authority upon whom the duty of making the nomination was thus cast should be encouraged to avail himself, as far as the circumstances permitted, of the advice and assistance of any public bodies whose character and position rendered it likely that they could be consulted with advantage. I will read to the Council the words in

which this part of the subject was dealt with by the Secretary of State. Writing on the 30th June, 1892, he says—

'It appears to me probable, nevertheless, that the diffusion in the more advanced provinces of education and enlightened public spirit, and the recent organization of local self-government, may have provided, in some instances, ways and means of which the Governments may appropriately avail themselves in determining the character that shall be given to the representation of the views of different races, classes and localities. Where Corporations have been established with definite powers upon a recognised administrative basis, or where Associations have been formed upon a substantial community of legitimate interests, professional, commercial or territorial, Your Excellency and the Local Governors may find convenience, or advantage, in consulting, from time to time, such bodies, and in entertaining at your discretion an expression of their views and recommendations with regard to the selection of Members in whose qualifications they may be disposed to confide.'

"There can be no doubt, I think, that the language thus used by the Secretary of State reflected the general feeling on both sides of the British Parliament. It would be easy to multiply quotations, but I will content myself with referring to the important statement made during the course of the debate on the second reading by Mr. Gladstone, who, the Council will remember, was then leader of the Opposition.

"He pointed out that the only reasonable interpretation which could be put upon the clause giving the Governor General power, not only to nominate Additional Members, but to make regulations as to the conditions under which they were to be nominated, was an interpretation which assumed that something was meant 'beyond mere nomination.' 'The speech of the Under Secretary,' he said, appeared to him 'to embody the elective principle in the only sense in which we should expect it to be embodied. My construction of the Under Secretary's speech is that it implies that a serious effort should be made to consider carefully those elements which, in the present condition of India, might furnish material for the introduction into the Councils of the elective principle.' Towards the commencement of his speech Mr. Gladstone had pointed out that the proposals of Her Majesty's Government were apparently intended 'to leave everything to the discretion, judgment and responsibility of the Governor General and the authorities in India,' and, after dwelling upon the difficulty and responsibility of the task, he added: 'I am not disposed to ask of the Governor General or of the Secretary of State that they shall at once produce large and imposing results. What I wish is that their first steps shall be of a genuine

nature, and that whatever scope they give to the elective principle shall be real.'

"I should like at this stage to dwell upon the fact that the Government of India, ever since I have had the honour of being connected with it, while it has insisted upon the ultimate responsibility of the Government for these nominations, has constantly urged that any Bill which might be passed should render it possible for the Governor General, and for the heads of the Local Governments, to have recourse to the advice of what, for the want of any more convenient expression, I will describe as 'suitable constituencies.'

"I will venture to quote to the Council an extract from a Despatch sent home by us as long ago as the 24th December, 1889, in which we placed on record our opinion that it would be 'well that the measure about to be laid before Parliament should not absolutely preclude us from resort to some form of election where the local conditions are such as to justify a belief that it might be safely and advantageously adopted.'

"We went on to say that 'we should have been glad if the Bill had reserved to us authority to make rules from time to time for the appointment of Additional Members "by nomination or otherwise," and we should have considered it sufficient if the consent of Your Lordship in Council had been made a condition precedent to the validity of such rules. Such an enactment would have provided for the gradual and tentative introduction of a carefully guarded mode of electing Additional Members.'

"I am glad to have had the opportunity of referring to what we said upon this occasion, because I have seen it not unfrequently stated that the Government of India had strenuously opposed the introduction of anything approaching to the elective principle into the Bill, and that we had accepted it reluctantly and under pressure.

"These, then, are the conditions under which we are called upon to frame regulations for the appointment of Additional Members. I think the first observation which it would occur to any one to make would be that, given legislative bodies of the dimensions prescribed for us, or of any dimensions approaching to those laid down in the Act, it would be altogether hopeless to attempt the introduction of a representative system in the sense in which the words are understood in Western communities. How, for instance, would it be possible in a province like that of Bengal, with a population of 70 millions, to allot the handful of seats at our disposal so as to divide

the country, either in respect of geographical areas, or in respect of the different communities which inhabit it, in such a manner as to distribute the representation equitably, or to make it really effectual? And Iam bound to admit that, to the best of my belief, even those who are credited with opinions of the most advanced type upon Indian political questions have carefully guarded themselves against being supposed to claim for the people of India any system of representation closely imitating the Parliamentary systems of Western Europe.

"We are met, moreover, with this difficulty that, in many parts of India, any system of election is entirely foreign to the feelings and habits of the people, and that, were we to have recourse to such a system, the really representative men would probably not come forward under it.

"Upon a careful review of the whole matter, and of the contents of the Act, as well as of the circumstances under which it had been introduced and passed into law, it appeared to us that the mandate under which we were called upon to act might be summarised in the four following propositions:—

(1) It is not expected of us that we shall attempt to create in India a complete or symmetrical system of representation.

(2) It is expected of us that we shall make a *bonâ fide* endeavour to render the Legislative Councils more representative of the different sections of the Indian community than they are at present.

(3) For this purpose we are at liberty to make use of the machinery of election wherever there is a fair prospect that it will produce satisfactory results.

(4) Although we may to this extent apply the elective principle, it is to be clearly understood that the ultimate selection of all Additional Members rests with the Government, and not with the electors. The function of the latter will be that of recommendation only, but of recommendation entitled to the greatest weight, and not likely to be disregarded except in cases of the clearest necessity.

"It is in this light that the question has been considered and discussed by us with the Local Governments. We do not believe that the seats placed at our disposal can be distributed according to strict numerical proportion, or upon a symmetrical and uniform system. We do not believe, to use Mr. Gladstone's

words, that, under the Act, 'large and imposing results' are to be at once obtained, but we do believe that, by having resort to sources other than the unassisted nomination of the Government, we shall be able to obtain for these Councils the services of Members who will be in the truest sense representative, but who will represent types and classes rather than areas and numbers.

"We believe that it should not be beyond our power to secure in this manner for the Government the advice and assistance of men connected with different parts of the country, thoroughly aware of the interests and wishes of their countrymen, and able to judge of the extent to which those interests are likely to be affected by any measure of legislation which may be proposed. If we can obtain men of this description, not by selecting them ourselves, but by allowing the great sections of the community a voice in the matter, we believe that the persons selected will bring to our deliberations a very much greater weight of authority than they would have possessed had we been content to rely upon nomination alone.

"It would be impossible for me, within the limits of such a statement as I desire to make this morning, to explain in detail the rules as they will affect each of the four Local Governments concerned. I may say, however, that in each case we have provided by our Rules for the appointment of a number of non-official Additional Members in excess of the minimum determined by the Act, and also that we propose to use at once to the utmost the power of increasing the number of Additional Members in Bengal and the North-Western Provinces, by proclaiming the full maximum allowed under the Act. And I may here explain, in order to avoid misapprehension, what was the nature of the difficulty to which I referred just now, and also upon a former occasion, as having prevented the Secretary of State from at once giving his consent to our scheme as it stood. It was this: we had proposed that officials should be ineligible for 'election,' or, to use the strictly correct term, for 'recommendation.' A doubt, I believe, arose as to the legality of this exclusion. The legal point was eventually decided in favour of the rule as we had framed it, but, on a full consideration of the case, the Secretary of State in Council came to the conclusion that it was not proper that the whole official class should be subjected to such a disability, and the omission of the rule was consequently proposed by His Lordship and agreed to by us.

"It may, perhaps, interest my hearers if, as an illustration of the manner in which the new Rules will operate, I mention the leading features in the Bengal scheme.

" We have provided that, out of the 20 Councillors who may be nominated under the Act, not more than 10 shall be officials. Under the Act at least one-third of the Additional Members must be non-officials. This would give the Bengal Council 7 unofficial Members. Under the Rules there will be 10, and of these 7 will be nominated by the Lieutenant-Governor on the recommendation of the following bodies and Associations :—

A.—The Corporation of Calcutta ;

B.—Such Municipal Corporations, or group or groups of Municipal Corporations, other than the Corporation of Calcutta, as the Lieutenant-Governor may from time to time prescribe by notification in the Calcutta Gazette ;

C.—Such District Boards, or group or groups of District Boards, as the Lieutenant-Governor may from time to time prescribe as aforesaid ;

D.—Such Association or Associations of merchants, manufacturers or tradesmen as the Lieutenant-Governor may from time to time prescribe as aforesaid ;

E.—The Senate of the University of Calcutta.

" We have provided that each of the above groups shall (except as hereinafter provided in Rule VII) have at least one Councillor nominated upon its recommendation, but that the Corporation, the Mercantile Associations and the Senate shall have not more than one each.

" It is, however, further provided that the Lieutenant-Governor may nominate to such of the remaining seats as shall not be filled by officials, in such manner as shall, in his opinion, secure a fair representation of the different classes of the community, and that one seat shall ordinarily be held by a representative of the great landholders of the province. It was in our belief absolutely necessary that a part of the seats at our disposal should be reserved in this manner, and filled up by nomination pure and simple. Only by such a reservation was it possible to provide for the representation of those sections of the community which, although sufficiently important to claim a voice in our deliberations, happen to be in a minority, and therefore unable to secure by means of their votes the return of a Member acceptable to themselves. Members thus nominated, although not owing their nomination to the suffrages of their fellow-citizens, will, we hope, be regarded as distinctly representative of the class from which they are taken.

"It is also laid down that it shall be a condition in the case of any person recommended by a Municipal Corporation, or group of Municipal Corporations, that he shall be a person ordinarily resident within the Municipality of the district in which it is situated, or in some one of the Municipalities constituting the group, or of the districts in which they are situated. A similar condition is laid down with reference to persons recommended by District Boards.

"There are other provisions relating to matters of detail, but I do not think it necessary to trouble the Council with them, as the Rules will be published forthwith.

"The Rules for Madras and Bombay, and for the North-Western Provinces and Oudh, differ in some particulars, but are conceived in the same spirit. These also will be published without loss of time.

"It remains for me to say a few words with regard to the manner in which it is proposed to deal with the Council which I have the honour of addressing.

"The Government of India has, from the first, held that the reform of the Viceroy's Council must, to some extent, be dependent upon, and subsequent to, that of the local Councils. It seemed to us that, if the difficulty of obtaining an effectual system of representation was great in the case of the local Councils, it must, *à fortiori*, be greater still in the case of a Council entrusted with the duty of legislating for the whole of India, and, in our belief, the strongest argument in favour of dealing, in the first instance, with the local Legislatures was that we were likely to find in them, when they had been strengthened and reformed, the most convenient electoral bodies for the purpose of choosing a part at all events of the Additional Members who will be appointed to the Legislative Council of the Viceroy.

"This view found much acceptance in Parliament. In his speech in the House of Lords on March 6th, 1890, Lord Northbrook said—'For the present he would not be disposed to go further in respect of the Supreme Council except, perhaps, to allow a selection by each of the subordinate local Legislatures.'

"In the same debate Lord Ripon remarked—That 'he was glad to concur with his noble friend who had just spoken' (Lord Northbrook) 'in the expression of a desire to see the elective or representative element introduced into those Councils. If that step were taken, it would be desirable to introduce the

same element into the Council of the Governor General, very likely in the manner suggested, by selection from the local Councils.'

"We have made a proposal of this kind to the Secretary of State. The maximum number of Additional Members who can be nominated to the Governor General's Council is 16. Of these at least 8 must, under the Act, be non-officials. We have recommended that there shall be 10 non-officials. We have suggested that 4 of these might be selected and recommended to us by the local Legislatures of the four Provinces having local Councils, that one at least would be required to represent the interests of commerce, and that one might perhaps be chosen from the Calcutta Bar. We propose that the discretion of the Viceroy with regard to the sources from which the remaining 4 might be obtained should be interfered with as little as possible. There may be found in those provinces which do not possess Legislative Councils certain classes and sections of the community so far accustomed to collective action in the promotion of their common interests that they would be qualified to unite in submitting a recommendation in respect of any seat which the Governor General may desire to fill up from a particular province, and we have been in communication with the Governments of these provinces upon this subject. It is, however, clear that whatever arrangement may be made with this object should be as elastic as possible. We might, for example, find from time to time that the consideration of some particular measure requires the presence in this Council of a Member specially conversant with the subject, or with the territories which the contemplated legislation will affect, and this contingency must certainly be provided for in the case of those provinces which have no local Legislatures, and for which such legislation as is required must be undertaken in the Council of the Governor General. We do not, therefore, in the case of these provinces see any necessity for such detailed rules for the submission of recommendations as have been proposed for the local Councils. We shall, however, endeavour as far as possible, in the event of a Member being required for this Council from any of the four provinces not having local Councils, to give that Member, by resorting as far as possible to the system of recommendation, a more representative character than would attach to him if he were arbitrarily selected by the head of the Government.

"This is the scheme which, in so far as this Council is concerned, we have submitted to the Secretary of State in terms closely corresponding to those of which I have now made use. We shall at once embody our proposals in a set of rules which will be forwarded for the final sanction of Her Majesty's Government. I have every hope that rules will have been agreed to and will be in operation before the next Calcutta session.

16TH MARCH, 1893.] [*The President; Mr. Fazulbhai Vishram; Sir Philip Hutchins.*]

" I have now explained, as far as is necessary, the procedure which will be followed in giving effect to both portions of the Indian Councils Act. It is not unlikely that our proposals will disappoint the expectations of those who would gladly see us travel further and faster along the path of reform. We claim, however, for the changes which we have been instrumental in procuring that they will, beyond all question, greatly increase the usefulness and the authority of these legislative bodies. We are able to show that the number of Additional Members has been materially increased; that we have considerably widened the functions of the Councils by the admission of the right of interpellation and the discussion of the Financial Statement; and, finally, that we shall no longer rely on nomination, pure and simple, for the selection of Additional Members. These are all substantial steps in advance. I hope the Government of India will have the assistance of all concerned in carrying out the Rules in such a way as to secure in the most effectual manner the objects with which they have been framed. It is highly probable that experience will suggest improvements in matters of detail, and I need not say that, in so far as we are not bound by the limits indicated in the Act, we shall be glad to consider the Rules as to some extent experimental and tentative, and that we shall welcome any suggestions which may be offered to us for the purpose of making them work as satisfactorily as possible."

QUESTION.

The Hon'ble MR. FAZULBHAI VISHRAM enquired whether the Government of India contemplate any arrangement regarding the emigration of Indian labourers to Australia, and, if so, whether such emigration will be subject to the provisions of the Act (XXI of 1883 as amended by Act XVIII of 1890) that applies to the emigrants proceeding to the Mauritius, Bourbon and the West Indies, or whether some other, and, if so, what, measure or measures are proposed to be adopted for the protection of the labourers in question.

The Hon'ble SIR PHILIP HUTCHINS replied:—" The only Australian colonies from which applications for Indian labour have at any time been received are Queensland and South Australia.

" Negotiations for importing Indian coolies into Queensland and the Northern Territory of South Australia were opened as long ago as 1881, but, so far as Queensland is concerned, the project was abandoned two years later. The Government of South Australia went so far as to pass, in consultation with the Government of India, an Ordinance for controlling Indian emigration, but

nothing was done to bring it into practical operation, and the Government of India heard nothing further till 1891, when an amending Ordinance was received from the Colonial Government. By this enactment a provision in the earlier measure, which required the appointment of an Immigration Agent-General or Protector of Emigrants, was repealed. The Government of India objected to the alteration and informed the Colonial Government that they regarded this condition as essential for the well-being of the emigrants, and would be unable to legalize emigration to the Northern Territory unless an Indian officer, acquainted with the language and habits of Indian coolies, were accepted as Protector.

"No further official communication has been received on the subject, and there has been no emigration up to date. Should emigration to any of the Australian colonies ever be established, it will probably be brought under the Indian Emigration Act, XXI of 1883, and it will be necessary to make some such arrangements for the protection of the coolies as prevail in British Guiana, the emigration laws of which were generally followed in the preparation of the South Australian Ordinance."

PRESIDENCY SMALL CAUSE COURTS ACT, 1882, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER asked for leave to postpone his motion that the Bill to amend the Presidency Small Cause Courts Act, 1882, be referred to a Select Committee consisting of the Hon'ble Sir Philip Hutchins, the Hon'ble Mr. Woodburn, the Hon'ble Mr. Mackay, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Sir Griffith Evans, the Hon'ble Mr. Fazulbhai Vishram and the Mover. He said :—

"I had hoped at the time when giving notice of this motion that all the papers connected with the Bill to which it refers would have been in before now; that there would have been time for the Select Committee to consider the various objections which have been taken to the Bill as it stands, and to present a Preliminary Report before the end of this session. Although I never intended to propose to pass the Bill during this session, I thought that a preliminary report such as that to which I have referred would probably be of very great assistance both to those in charge of the Bill and to those officers and persons who might desire to criticise it. I found, however, that for want of the proper materials no such preliminary report

as I desired would really have the effect for which I wanted it, and that therefore I should merely be giving a certain amount of trouble to a number of gentlemen who have something else to do if I were upon this occasion to ask them to meet as a Select Committee. I propose, therefore, simply for the present to announce that I will, so far as I can, endeavour, before we meet again next cold weather, to examine all the criticisms which may be made on the Bill, so as to be in a position then to lay it before the Select Committee with the fullest information as to what the feelings and wishes of the classes who may be affected by the Bill will be. I may, however—as I think it will tend to clear the air, and as every one must be aware that the Government of India can have no object in bringing forward a Bill of this kind, except to supply the mercantile classes of the country with the most satisfactory tribunal which the nature of the circumstances will permit—I may, I say, for that reason explain, as regards the only two points which, as far as I know, have been made the subject of animadversion, the opinion which I hold (I can speak positively for myself, but not for any one else), and which I think is the generally accepted view, on the subject of those two points.

"The first of those points is the qualification of the Judges. As the present Small Cause Court stands, one-third of the Judges—that means two, because there is no case in which there are more than six—two of the Judges in each Court must be advocates of some one of the High Courts in India; or as I saw it put, and very properly put, the other day in one of the notes that came before me, they should be taken from the ranks of the practising Bar; but for the remainder, three or four, as the case may be, there is absolutely no qualification whatever prescribed, and it would be within the power of the nominating authority to nominate to those Judgeships any person whomsoever. I do not suppose it would be likely that any person having absolutely no qualification would be appointed; but unquestionably it is possible, if not probable, that the qualifications selected might be very deficient, and therefore I do think it extremely important that a professional qualification of some kind or other should be laid down for every person who is to be appointed a Judge of a Small Cause Court. Whether the particular qualifications mentioned in the Bill are the best I do not pretend to say. They have been laid down partly with reference to existing practice, and partly with reference to the qualification required for the Judges of the High Court, but I should be quite prepared to accept any modification of those qualifications which the Select Committee, when it meets, or

this Council at large, should consider desirable; and the question whether the special qualification of being a practising barrister should be confined to the Chief Judge alone, or should extend, as now, to one-third of the Judges in each Court, is one as to which I am absolutely indifferent. If it be considered desirable that this special qualification should continue to apply, as it does at present, to one-third of the Judges in each Court, I for one have no objection whatever to it. It is, I admit, a thing which is, as far as I know, unique, that there should be any exceptional qualification for some among the puisne Judges in any Court, or that there should be any difference whatever between the second and the last Judge, except that which necessarily arises from the difference in date of their appointments; but, if it is thought desirable that such a difference should continue, I have no reason whatever to oppose it, and certainly would not oppose it.

"The other point is one, perhaps, of a little more difficulty. The history of all these Small Cause Courts has been the same; and in saying this I am not speaking only of the Small Cause Courts of India, but of the County Courts in England, the Civil Bill Courts in Ireland, and the corresponding Courts in France. In every case they have been originally intended to give a cheap, ready and not particularly discriminating remedy for the collection of small debts. In every case it has been found that wherever you attempted to draw a line as to the extent of the jurisdiction of these Courts the attempt had failed, and that there were always cases just a little above the jurisdiction, undistinguishable in principle from those just within it, and then the jurisdiction had to be extended and the line drawn a little higher; and so on. Thus, to take as a fair illustration the County Courts in England, established forty years ago with a maximum jurisdiction of £20 and an exclusive jurisdiction of £5, these have grown until they have now in some respects an unlimited jurisdiction, in some they go as high as £300, in all cases as high as £100, whilst the jurisdiction to be exercised without appeal extends up to £20 in all cases in which no interest in land is affected, except with leave of the judge; but where the judge gives leave, or where land is affected, you have an appeal given in every case down to the lowest. Well, the same thing precisely has happened in India, and Courts which, when originally established, were intended for the recovery of what I am surprised to find are regarded as small causes here have had their jurisdiction gradually extended. I certainly should never have looked upon a case involving Rs. 1,000 as a small cause, but, having been established with a jurisdiction up to Rs. 1,000, they have been extended and now they have a

jurisdiction up to Rs. 2,000. Further, there is from the Small Cause Court no direct appeal; but there is a curious complicated clause—I have seen it described as a hateful clause—by which a kind of revision can be effected by invoking the interference of the High Court—more expensive, more cumbrous and less efficacious than an appeal. Whatever may happen in other respects, in my opinion, that power of revision, which is sanctioned I believe by clauses 38, 39 and 40, ought to go. They cannot, in my opinion, ever work well, and, whether anything is substituted for them or not, I consider that they ought not to stand. It will be perfectly understood that the power of revision which the High Courts have under a clause in their Charter would be absolutely unaffected by the removal of those clauses. I have on another occasion expressed a strong opinion that, whether we have a right or not—and that is a subject on which I decline to express any opinion—to interfere with the original civil jurisdiction of the High Court under its Charter, we ought not in any case to interfere, and so far as I am concerned I do not propose to interfere, with the original jurisdiction of the High Court.

"But on the other question I am perfectly clear—that there is no Judge living, from the Lord Chancellor of Great Britain downwards, who ought to be entrusted with authority to decide a question involving Rs. 2,000 without an appeal. Whether the matter should be settled by restricting the jurisdiction to Rs. 1,000, or by giving, as the Bill proposes, an appeal in cases of value between Rs. 1,000 and Rs. 2,000, or, in the manner I have heard suggested, by giving concurrent jurisdiction in cases between Rs. 1,000 and Rs. 2,000, allowing the defendant an absolute right to remove such cases into the High Court if he pleases, and barring him of any appeal if he chooses to consent to the case remaining in the Small Cause Court—any of these solutions of the question I should be willing to assent to. But to leave a Court with power to dispose of cases involving £150 or thereabouts in value in a single hearing, and at the discretion of a single man, I consider would amount to a failure of justice. My own view would be that every cause, however small, should be appealable; and I may mention as an illustration that the most hotly contested case in which I was ever concerned—one which was heard on five different occasions, and which twice went to the Court of Appeal in England, was one in which the value of the cause, estimated as causes are valued in India, was twopence—the case of *Brown* versus *The Great Western Railway Company*. But, as I have said, my sole desire is that these Courts should be made as efficient for their purpose as the means at our disposal will permit, and, if the classes who are most interested in these causes would think it better to limit the jurisdiction

to the original sum of Rs. 1,000, abolishing all appeals, and all revisions except such as come under the 26th clause of the Charter of the High Court, I should be perfectly willing to acquiesce. Questions of that kind I should desire to leave to the discretion of the Select Committee, and I should wish to put upon that Committee every one who would be interested in the matter and capable of giving an opinion upon the points in issue. In the meantime I propose, when I have got the opinions already asked for on the Bill, to give such publicity to these as I reasonably and properly can, in order that the whole question may be thought out, and that I may get as much assistance as possible from the parties interested, so that by the time we meet next cold weather I may be able to get the Bill into a form in which it will be generally acceptable."

The Hon'ble SIR PHILIP HUTCHINS said :—"Although I am not strictly in order in offering any remarks with regard to the statement just made by the Hon'ble Sir Alexander Miller, I think the Council will be glad to know that the postponement of this Bill till next cold weather will not cause any serious administrative inconvenience. Hon'ble Members are aware that the Bill arose originally out of complaints that the Calcutta Court was not getting through its work in a satisfactory manner; there were great delays and constant adjournments, entailing heavy expense on litigants. I am in a position to say that there is no longer any ground for complaint in this respect. The report on the working of the Court during last year reached me a few days ago, and it shows that the duration even of contested suits has been reduced to two months, while uncontested cases are now disposed of, on an average, in twenty days, which is just half the time occupied in Madras and Bombay."

Leave to postpone the Motion was granted.

INLAND EMIGRATION ACT, 1882, AMENDMENT BILL.

The Hon'ble SIR PHILIP HUTCHINS presented the Report of the Select Committee on the Bill to amend the Inland Emigration Act, 1882.

The Council adjourned to Thursday, the 23rd March, 1893.

J. M. MACPHERSON,
Offg. Secretary to the Government of India,
Legislative Department.

CALCUTTA;
The 22nd March, 1893.

Government of India Central Printing Office.—No. 480 L. D.—23-3-93.—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Acts of Parliament 24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14.

The Council met at Government House on Thursday, the 23rd March, 1893.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G., G.M.S.I., G.M.I.E., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
His Excellency the Commander-in-Chief, V.C., G.C.B., G.C.I.E., R.A.
The Hon'ble Sir P. P. Hutchins, K.C.S.I.
The Hon'ble Sir D. M. Barbour, K.C.S.I.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. L. Mackay, C.I.E.
The Hon'ble Dr. Rashbehary Ghose.
The Hon'ble Palli Chentsal Rao Pantulu, C.I.E.
The Hon'ble Sir G. H. P. Evans, K.C.I.E.
The Hon'ble Fazulbhai Vishram.
The Hon'ble C. C. Stevens.
The Hon'ble J. Buckingham, C.I.E.
The Hon'ble A. S. Lethbridge, M.D., C.S.I.
The Hon'ble J. Woodburn, C.S.I.

QUESTIONS.

The Hon'ble MR. BUCKINGHAM asked:—

I. Whether the effect of the assessment rates adopted for the revision of the land-revenue settlement in Assam will result in the enhancement of as much as 100 per cent. on a large proportion of raiyats' holdings under "ordinary" cultivation?

II. Whether any limit of total enhancement on individual holdings is prescribed, as in Bombay?

The Hon'ble SIR PHILIP HUTCHINS replied as follows:—

"The Government of India are not yet informed as to the extent to which assessments of holdings will be raised, or whether in any case they will be

doubled. The Chief Commissioner was instructed that it might be desirable to impose a limit on the assessment of individual holdings, but no report has yet been received as to the limit he proposes to adopt. The limit on individual holdings in Bombay is 100 per cent., and lower limits are laid down for villages and districts. I do not think it possible that the new land-tax on any individual holding in Assam will be doubled, though I believe that the assessment on some particular lands may be increased to that extent. The doubling of the rates on some individual holdings or on particular classes of land need not necessarily result in an equivalent increase of the assessment on any considerable area. If, however, it should be found, in individual cases, that the immediate imposition of the full enhancement deduced from fair rates would be unduly severe, the system of progressive assessments now usually adopted in other Provinces in similar circumstances will doubtless be followed in Assam. That is to say, a moiety or other fraction of the enhancement will probably be taken during the first years of the term for which the settlement is made, then a larger fraction for a few more years, and only after that the full assessment."

FINANCIAL STATEMENT FOR 1893-94.

The Hon'ble SIR DAVID BARBOUR said :—"In accordance with the rules made under the Indian Councils Act of 1892, the annual Financial Statement must be explained in the Legislative Council of the Government of India and may be discussed by the Members of that Council, each of whom is entitled to receive a printed copy of the Statement.

"A printed copy of the Financial Statement has been supplied to each Member of the Council, and I shall now proceed to explain the general financial position of the Government of India; such discussion of the Financial Statement as may be considered necessary can take place subsequently.

"In the explanation which I propose to lay before this Council I shall confine myself almost entirely to Imperial Revenue and Imperial Expenditure, and I shall neither take up matters of minor importance nor attempt to deal with Provincial and Local Finance, my special object at the present moment being to convey to the Council and to the public a correct outline of the general financial position of the Government of India: those who wish for further and fuller information will find it in the body of the Financial Statement.

"I shall deal, as is usual, with the transactions of the Government of India under the three following heads:—

(1) The Accounts of the financial year 1891-92 which have been finally closed.

(2) The Revised Estimate of the financial year 1892-93 which ends on the 31st instant.

(3) The Budget Estimate of the coming year—1893-94.

"The explanation I am about to give is printed as Part I of the Financial Statement, and where Revenue or Expenditure is mentioned, it should be understood that Imperial Revenue or Imperial Expenditure is meant, unless the contrary is stated in the context.

"The financial position of the Government of India, at the present moment, is such as to give cause for apprehension, and I shall be obliged, in the explanation I am about to lay before this Council, to go back a short way into the history of the past in order to bring out more clearly the nature of the difficulties with which we have to contend and the causes to which they owe their existence. It will not be necessary for this purpose to go back further than March, 1891, the month in which the Budget Estimates of the financial year 1891-92 were issued. This is the latest year of which the Accounts have been finally closed.

"Section I.—Accounts of 1891-92.

"When the Budget Estimates for the year 1891-92 were being framed, just two years ago, the rate of exchange was taken at what would now seem the excessive figure of 1*s.* 5¼*d.* the rupee; the surplus shown in the Estimates was Rx. 115,600, and practical equilibrium between Revenue and Expenditure was secured.

"It was explained in the Financial Statement issued in March last that from a financial point of view the unfavourable incidents of the year 1891-92 were (1) a fall in the average rate of exchange of the year to 1*s.* 4·713*d.*, involving an increase of the net Expenditure under Exchange by Rx. 782,200, (2) a considerable increase in Military Expenditure, chiefly on account of expeditions, and (3) a falling off in Land Revenue owing to scarcity; on the other, or favourable, side of the account there was (1) a very large increase of Railway Revenue, (2) a substantial increase of net Opium Revenue, and (3) a satisfactory growth of Ordinary Revenue other than Land Revenue.

"It appeared at that time, March, 1892, that the changes for the worse which had occurred during the year 1891-92 would slightly outweigh the changes for the better, and Expenditure was shown in the Revised Estimates of 1891-92 as being somewhat in excess of Revenue; at the same time it was anticipated that some improvement might occur at the last moment and that the Accounts of the year when finally closed would show a surplus. This hope has been realised, and the Accounts of 1891-92 have closed with a surplus of Rx. 467,000—a not unsatisfactory result, even though the larger part of

that surplus is due to a payment which it was expected would be made to the War Office in 1891-92 having been postponed to 1892-93; the provision made on this account in the Revised Estimates of 1891-92 was £240,000. The amount actually paid in 1892-93 was £208,000 and the finances of the year 1891-92 have been relieved at the expense of those of the current year.

"With 1891-92 the era of surpluses, I regret to say, comes to an end. During the four years from 1884-85 to 1887-88 there was an aggregate deficit of Rx. 5,039,000. In 1888-89 there was a surplus of Rx. 37,000, in 1889-90 of Rx. 2,612,000, in 1890-91 of Rx. 3,688,000, in 1891-92 of Rx. 467,000, the aggregate surplus of the four years being Rx. 6,804,000. The Revised Estimates of the year which is now drawing to a close, and the Budget Estimates of the year on which we are about to enter, show deficits of considerable magnitude.

"Section II.—Revised Estimate of 1892-93.

"I now come to the Revised Estimates of 1892-93—the year which is just about to close,—and I shall in the first place call attention to the conditions under which these Estimates of 1892-93 were originally framed. The fall in the rate of exchange during the year 1891-92 had been so great that in the Financial Statement for 1892-93 some difficulty was experienced in securing equilibrium between Revenue and Expenditure. The fall in the rate of exchange, from 1*s.* 5¼*d.*, the figure taken for the Budget Estimates of 1891-92, to 1*s.* 4*d.*, the highest rate which it was considered safe to take for 1892-93, caused the charge for Exchange to increase by no less than Rx. 1,708,000. We were able to cover this heavy loss and to secure a small surplus of Rx. 146,600 in the Budget Estimates of 1892-93, but it was only a concurrence of fortunate incidents that enabled us to do so. These fortunate incidents were (1) the receipt of contributions to the extent of Rx. 466,000 from Local Governments on revision of the Provincial Contracts, (2) the anticipated growth of general Revenue under the Principal Heads (excluding Opium) to the extent of Rx. 625,000, (3) the anticipated growth of Railway Revenue to the extent of Rx. 606,000 in India, less increased expenditure in England of £51,800, and (4) a substantial improvement under Interest in India owing to our having been able to avoid borrowing for some years, and to our having increased the Paper Currency investment by one crore of rupees.

"The rate of exchange taken in the Budget Estimates of the current year —namely, 1*s.* 4*d.* the rupee—has not been realised. The actual rate of exchange at the present time is unsettled, and at this moment is below 1*s.* 2·5*d.*, and the average rate for the year is slightly below 1*s.* 3*d.*; the net charge for Exchange has increased by Rx. 1,936,600, of which Rx. 1,635,300 is due to the fall in the rate of exchange, and the remainder to increase of sterling Expenditure. Nor is this fall in Exchange the only untoward event which has affected the figures of the

year 1892-93; there is also an increase of the net sterling Expenditure in England, amounting to £602,600, and involving, with Exchange at the Budget rate of 1*s.* 4*d.*, an increased burden of Rx. 903,900, and there is an increase in the Expenditure under Army Services in India to the extent of Rx. 515,500.

"The three great causes of increased Expenditure during the year 1892-93 have been (1) the fall in the rate of exchange, which caused an increase of Rx. 1,635,300, (2) increased sterling Expenditure, involving a burden of Rx. 903,900, and (3) increased Expenditure on the Army in India to the extent of Rx. 515,500, making a total of Rx. 3,054,700. As the surplus shown in the Budget Estimates was only Rx. 146,600, and the three causes I have just mentioned increased the Expenditure by Rx. 3,054,700, it will probably be a surprise to most people to learn that the deficit shown in the Revised Estimates is only Rx. 1,081,900, a figure which will no doubt be still further reduced when the Accounts of the year are finally closed. The Budget Estimates show a surplus of Rx. 146,600 and the Revised Estimates show a deficit of Rx. 1,081,900; there has, therefore, been during the year a falling off or deterioration on the whole account of Rx. 1,228,500, being the amount of surplus shown in the Budget Estimates *plus* the amount of deficit shown in the Revised Estimates. The three great causes which I have already mentioned having been sufficient to cause a falling off to the extent of Rx. 3,054,700 and the actual falling off, everything included, being only Rx. 1,228,500, it follows there must have been an improvement in other directions of Rx. 1,826,200, being Rx. 3,054,700 *minus* Rx. 1,228,500. I shall explain a little later in what way this improvement of Rx. 1,826,200 was obtained, but in the first instance it will be convenient to state the causes of the increase in sterling Expenditure and of the increase in Expenditure on the Army in India.

"The chief increases in sterling Expenditure in England are £427,800 under Army Services, £123,400 under Marine, £81,900 under Superannuation Allowances and Pensions, and £37,600 under Interest.

"The increased Expenditure under Army was caused by the payment of an arrear charge of £208,000 to the War Office in 1892-93 instead of in 1891-92 as originally intended, and by the adoption of a rule for the payment of furlough allowances and retired pay in arrears at the end of each month instead of in arrears at the end of each quarter. Such a change must, from the nature of the case, add to the total charge in the first year because the allowances are paid sooner than would otherwise be the case, and the amount due at the end of the year is reduced. The same cause accounts for the increase of £81,900 in civil Superannuation Allowances and Pensions. The increase in the Marine charge is due to payments on account of the construction of ships and a dredger, which were not provided for in the Budget Estimates.

"The increase of £37,600 under Interest is due to discount on a sterling loan of £1,300,000 raised during the year for advances to Railway Companies and discharge of Railway Debentures.

"The increased Expenditure of Rx. 515,500 on Army Services in India is due to the following causes:—

	Rx.
Suppression of disturbances in the Lushai Country	60,000
Isazai Field Force	50,000
Gilgit Agency	9,000
Kajuri Kach Force	100,000
Kurram Escort	45,000
Transport charges for supply of Gilgit Agency	78,400
Arrear charges connected with the Manipur Expedition	7,600
Rise in price of food and forage and increase in the number of transport animals to be fed (about)	150,000
Total	500,000

"There were also other increases of charge of minor importance and some decreases of no great magnitude which need not be separately specified.

"I come now to the explanation of the fact that, with an increase of sterling Expenditure involving at the Exchange of 1*s.* 4*d.* a burden on the finances of Rx. 903,900, with an increase in Army Expenditure in India amounting to Rx. 515,500, and with an increase of Rx. 1,635,300 on account of the fall in the rate of exchange, giving in all a deterioration of Rx. 3,054,700, the deficit is only Rx. 1,081,900. In making this explanation it will be most convenient to deal separately with the Opium Revenue, deducting Opium Expenditure from Opium Revenue so as to get the figure of net Revenue. It is at first sight not a little remarkable that an unfavourable Opium crop should, for the present, have had the effect of materially increasing the Revenue and at the same time largely reducing the Expenditure, the total gain in net Opium Revenue in India as compared with the figures of the Budget Estimates being no less than Rx. 971,900.

"In the first place, I may mention that the poppy cultivation failed to a large extent in the cold weather of 1892, so that the sums paid to the cultivators, which sums fall into the accounts of the current year, were greatly reduced in amount, and the total Expenditure in India under Opium in 1892-93 proved to be Rx. 1,593,900 as compared with the Budget provision of Rx. 2,233,900, the saving being Rx. 640,000.

"The knowledge that the crop of Opium was a poor one immediately affected the market, and a rise took place in the price of Bengal Opium. In making our

Budget calculations we had estimated the price of Bengal Opium at R1,050 a chest, while the average price actually obtained has proved to be R1,247. If we could have continued our sales throughout the financial year at the figures of the earlier months, the gain from the increased price of Bengal Opium would have been Rx. 1,065,200. As the reserve stock of Opium was running down, this could not be done, and the quantity of Bengal Opium to be sold monthly was reduced from 4,500 chests to 3,642 chests with effect from 1st October, 1892. The exports of Malwa Opium also proved smaller than the Estimate, and than had been the case for many years. Consequently the gross Revenue from Opium exceeds the figure of the Budget Estimates by only Rx. 331,900. As the gross Revenue from Opium increased by Rx. 331,900 and the Expenditure was reduced by Rx. 640,000, the increase in the net Revenue is Rx. 971,900.

"In addition to the great improvement in net Revenue from Opium, which I have just explained, and which, I must admit, is accidental, temporary, and, from a financial point of view, far from satisfactory, there has been a general increase of Revenue under almost every head in the Estimates.

"The total gross Revenue in India shown in the Budget Estimates of 1892-93 was Rx. 65,399,500; the amount shown in the Revised Estimates which are now published is Rx. 66,423,300, being an increase of Rx. 1,023,800. Of this increase I have already taken into account the increase of Rx. 331,900 in Revenue from Opium; excluding the temporary and accidental increase in Opium Revenue, there has been, therefore, during the year an improvement in Revenue of Rx. 691,900.

"There is nothing which has so beneficial an influence on the growth of the general Revenue as timely and plentiful rains and good harvests, and, as India has been on the whole somewhat unfortunate in these respects during the last few years, the increase of Revenue which I have just stated is specially satisfactory, inasmuch as it shows that, although the progress of the country may have been impeded by the occurrence of unfavourable seasons, it has not been stopped or even seriously checked. Nevertheless, the growth of Revenue during the year appears to show traces of the influence of unfavourable seasons. There is not a very remarkable increase of Revenue in any direction, and the satisfactory aggregate increase which has been secured is due to moderate increases under almost all heads, and indicates steady and general improvement rather than unusual expansion.

"The only decreases of Revenue of any importance are Rx. 120,700 under XXIV Exchange, Rx. 76,000 under Customs, and Rx. 34,800 under Interest.

"The amount of Revenue shown under XXIV Exchange depends on the average market rate of Exchange during the year, on the rates fixed by contract

with the Railway Companies for regulating certain transactions between them and the Government, on the nature and extent of these transactions during the year, on the extent of Remittances during the year, and on the rate of Exchange fixed yearly for the settlement of accounts between the Indian and the Home Government. Increases or decreases of Revenue under such a head are of course no indication of the general progress or prosperity of the country. The falling off under Interest is due to the fact that the Railway Companies did not overdraw their capital to the extent anticipated, and an increase or decrease of Revenue from interest on advances to Railway Companies has not any bearing on the question of the growth of ordinary Revenue. The falling off in Customs Revenue is due to reduced exports of rice from Burma.

"The principal increases of Revenue are the following:—

Head of Account.	Rx.
State Railways	143,600
Land Revenue	117,800
Salt	104,900
Mint	99,400
Excise	79,800
Irrigation, Major Works including Land Revenue due to Irrigation	69,900
Stamps	60,200
Army receipts	51,100
TOTAL	726,700

"As the increase in net Opium Revenue is Rx. 971,900, and the increase of Revenue under other heads is Rx. 691,900, we get a total improvement in Revenue of Rx. 1,663,800. This it will be recollected is the increase in Imperial Revenue, and does not take into account Provincial and Local Revenue, the amount of which has no bearing on the surplus or deficit of the year. I may, however, mention that the increase of Provincial and Local Revenue during the year is Rx. 592,500.

"The growth of Revenue during the current year has, as I have just shown, been satisfactory, and it is hardly less satisfactory that the public Expenditure in India during the same period has, with only a single exception of importance, been kept well within the Budget Estimates. The Budget Estimate of this Expenditure for the current year was Rx. 41,628,500 and the corresponding figure of the Revised Estimate is Rx. 41,341,600, a reduction in the aggregate Expenditure of Rx. 286,900. If we eliminate from the account the decrease in Opium Expenditure of Rx. 640,000, which must be admitted to be accidental and temporary, and with which I have separately dealt, it will be seen that the increase of Expenditure under all other heads has been Rx. 353,100, an increase which is

more than accounted for by the increased Expenditure of Rx. 515,500 on Army Services which I have already explained.

"The Expenditure under all heads other than Opium and Army Services is very closely in accord with the Budget Estimates both in aggregate amount and in details and need not be further examined. It will suffice to mention that, excluding Expenditure under Opium and Army Services, there is a small saving of Rx. 162,400, an amount slightly less than the saving which occurs under the Railway Revenue Account.

"The explanations already given, and which I fear may have proved somewhat tedious, place me in a position to sum up in a few words the financial results of the year 1892-93.

"In the first place, we have had a net increase of sterling Expenditure amounting to £602,600, which (taking exchange at the Budget rate of 1*s.* 4*d.*) involves an increased charge of Rx. 903,900. In the next place, we have had increased Expenditure on the Army in India amounting to Rx. 515,500; and lastly, and most important of all, there has been a fall in the rate of exchange from 1*s.* 4*d.* to 1*s.* 3*d.*, involving a net increase of the charge in the columns headed Exchange of no less than Rx. 1,635,300; the total falling off during the year from these three causes being Rx. 3,054,700. To balance this great and disastrous falling off we have, in the first place, the temporary and accidental increase in net Opium Revenue in India of Rx. 971,900; in the next place, we have a satisfactory growth of Revenue under other heads of Rx. 691,900, and we have a slight saving of Expenditure (excluding Army Services and Opium) which amounts to Rx. 162,400. The total improvement is Rx. 1,826,200.

"Our losses exceed our gains by Rx. 1,228,500, and the Budget surplus of Rx. 146,600 is converted into a deficit on the Revised Estimates of Rx. 1,081,900.

"The Final Accounts of each financial year usually, and I may say invariably, show improvement over the Revised Estimates, and I fully anticipate that in March 1894 my successor will be able to announce that the actual deficit of the year 1892-93 is below the figure at which it is now placed.

"However satisfactory this result may appear at first sight, and under all the circumstances of the case, a closer examination of the figures affords ground for apprehension.

"The temporary and accidental gain in net Revenue from Opium will disappear in 1893-94 and the influence of short crops in past years will still further reduce the income from Opium. On the other hand, the loss due to the fall in the rate of exchange will remain, and will increase, because there is at the present time no prospect that the rate of exchange will be as high in 1893-94

as it has been in 1892-93, and the fall will not merely add largely and directly to the burden of Indian Expenditure, but will materially increase the cost to be incurred on account of the British troops serving in India, whose pay is fixed in sterling. On the other hand, we may expect to retain a large proportion of the increase of ordinary Revenue which we obtained in 1892-93, and the causes by which the sterling Expenditure was swollen in the current year will no longer operate.

"The prospective loss exceeds the amount of gain on which we can reckon, and we may say at once, and without waiting to examine the Budget Estimates of 1893-94, that the deficit of the year 1893-94 must exceed that of 1892-93 by a considerable amount.

"Section III.—Budget Estimate of 1893-94.

"In the Estimates of the coming year the total Imperial Revenue in India and England amounts to Rx. 66,648,800, and the total Imperial Expenditure to Rx. 68,243,900, and the deficit is Rx. 1,595,100.

"The announcement of a large deficit will not, I believe, come as a surprise to those who have paid any attention to financial matters during the past year, or who have taken their opinions on the subject from the public Press. I shall now explain the exact influence exercised upon the financial position of the Government of India by the various causes which have come into operation during the last twelve months, and which have resulted in transforming the small surplus of the Financial Statement of 1892-93 into a deficit for the coming year which exceeds one and a half crores of rupees. The immediate and principal cause, as every one knows, is the fall in the rate of exchange, but there are other causes of less importance which also require notice.

"In the explanation I am about to make I shall take as my starting point the Budget Estimates of 1892-93, which showed a surplus of Rx. 146,600, and shall trace the various changes, favourable and unfavourable, which in the course of twelve months have brought us face to face with a deficit of Rx. 1,595,100. For the purposes of this explanation it will be convenient to again call attention in this place to the leading features of the position as it presented itself in March 1892.

"In the Financial Statement for 1892-93 it was stated that the fall in the rate of exchange from *1s.* 5¼*d.* to *1s.* 4*d.* had imposed on the finances of India an additional burden to the extent of Rx. 1,708,000, being the increase of Exchange on the net sterling Expenditure, in addition to an increase of Rx. 205,000 in the pay of the British Troops, and it was explained that this increase of charge had been met (1) by contributions from Local

Governments, (2) by anticipated increase of Railway Revenue, (3) by growth of Revenue under the Principal Heads, and (4) by some improvement under Interest owing to our having been able to avoid borrowing for some years, and to our having invested in Government securities a larger amount of the Paper Currency Reserve. The additional burden thrown on the finances in March 1892 was a very heavy one, and it was only a combination of favourable circumstances that enabled us to meet it for the time. The further and additional burden thrown on the finances at the present time is even greater than that of a year ago and another combination of equally favourable circumstances does not recur

"In the Estimates of the coming year the rate of exchange has been taken at 1*s.* 2¾*d.*, the approximate market rate of the date on which the Estimates were first compiled. The market rate of the present moment is considerably below 1*s.* 2¾*d.*, but the recent fall appears to be due, to a considerable extent, to misapprehension and panic. In any case it is quite impossible for us to recast our Estimates from day to day in the vain hope of being able to follow the fluctuations in Exchange. It will suffice to say that a drop in Exchange from 1*s.* 2¾*d.* to 1*s.* 2½*d.* would add Rx. 439,000 to the Expenditure. The rate of 1*s.* 2¾*d.* taken in the Estimates, though in excess of the market rate of to-day, is five farthings lower than the rate taken in the Budget of 1892-93, and the additional Expenditure, direct and indirect, for which we have to provide in consequence of this fall in the rate of exchange comes to no less than Rx. 2,229,400.

"The net sterling Expenditure in the Estimates of the coming year is £15,650,300, and the charge for Exchange at 1*s.* 2¾*d.* the rupee is Rx. 9,814,600; if we could have taken Exchange at the rate adopted in the Budget Estimate of 1892-93, namely, 1*s.* 4*d.*, the net charge for Exchange would have been only Rx. 7,825,200, and consequently the fall in the rate of exchange between March 1892 and March 1893 has added directly to the Expenditure of the Government of India the difference between these amounts, or the sum of Rx. 1,989,400.

"The pay of the British Troops serving in India, or in any other part of Her Majesty's dominions, is fixed in sterling, and must be converted into the currency of the country in which they are serving at a rate fixed annually, and intended to approximate to the average market rate of the year. The fall in the rate of exchange to 1*s.* 2¾*d.* has added on this account a further sum of Rx. 240,000 to the Indian Expenditure, causing the total additional charge, direct and indirect, on account of Exchange to amount to Rx. 2,229,400.

"The estimated surplus of 1892-93 was Rx. 146,600, and the estimated deficit of the coming year is Rx. 1,595,100, showing a total deterioration in the year of Rx. 1,741,700; as this sum is less by Rx. 487,700 than the falling

off due to the fall in Exchange alone, it will be obvious that, but for the fall in exchange below last year's Budget rate of 1*s.* 4*d.*, the Estimates of 1893-94 would have shown an improvement over those of 1892-93 amounting to Rx. 487,700, and I should now have been in a position to announce a surplus of Rx. 634,300 instead of a deficit of Rx. 1,595,100. An increase of Rx. 1,913,000 (Rx. 1,708,000 plus Rx. 205,000) in the burden on account of exchange, followed in twelve months by a further increase of Rx. 2,229,400 on the same account, the total increase amounting to over four crores of rupees, has imposed a strain on the Indian Finances which they are at present unable to bear.

"I shall now explain in what manner the improvement of Rx. 487,700, to which I have just alluded, has been obtained.

"In the first place, I may mention that the estimated net sterling Expenditure of 1893-94 is less than that of 1892-93 by £93,300, giving, at an exchange of 1*s.* 4*d.*, a reduction of charge to the extent of Rx. 148,900. The details of this reduction will be found in the body of the Financial Statement, and I shall not further notice the question of sterling Expenditure in the present place. There remain for examination the Estimates of Revenue and Expenditure shown in the Indian portion of the Accounts.

"In examining the Estimates of Revenue and Expenditure for 1893-94 I shall deal with *net* Receipts in the case of Opium and Railways; in other words, I shall deduct the Expenditure from the Receipts, and employ net figures. I adopt this course in consideration of the fact that in both cases the Expenditure is so closely connected with the Receipts, and constitutes so large a deduction therefrom, that to treat the total gross receipts as Revenue would be misleading. I do not consider it necessary for my present purpose to treat any other head of Revenue in a similar manner.

"In the net Revenue from Opium the Estimates of 1893-94 as compared with the Budget Estimates of 1892-93 show a falling off of Rx. 338,400; this is partly due to reduced exports of Malwa Opium. There has also been a large reduction in the quantity of Bengal Opium to be sold, and, though the falling off from this cause will be partly covered by the anticipated increase in the selling price, the reduction in Revenue from the sales of Bengal Opium alone is Rx. 207,000.

"Under the Railway Revenue Account the net Receipts in India have increased from Rx. 6,678,300 to Rx. 6,899,400, or by Rx. 221,100.

"Putting aside for the time the Revenue from Opium and the Railway Receipts, with which I deal separately, the total increase of Revenue in the Estimates of the coming year, as compared with the Budget Estimates of 1892-93, is Rx. 647,700. This satisfactory increase is spread over nearly

all heads. The only large item of increase is Rx. 313,500 under Land Revenue, and there are decreases under a few heads.

"The increase shown under Excise is only Rx. 36,500, and it may be well that I should explain that the increase of Imperial Revenue under this head would have been Rx. 104,000 had it not been decided recently to assimilate the Opium Law of Lower Burma to that of Upper Burma, or, in other words, to prohibit the consumption and possession of Opium by Natives of Lower Burma. This change involves a reduction of the Excise Revenue in 1893-94 by Rx. 67,500 and of the Opium Revenue by Rx. 22,500. The further loss which falls on the Provincial Revenues is Rx. 22,500. The loss of Revenue will be somewhat greater in subsequent years, as the proposed change is not expected to come into effect until three months of the next financial year have elapsed, and the reduction of Revenue will, therefore, affect only nine months of the year 1893-94.

"Turning to the Expenditure side of the account, I have to observe that, excluding Opium Expenditure and the Expenditure of the Railway Revenue Account, the total increase of Expenditure in India in the coming year is estimated at Rx. 431,600.

"In explaining the causes of this increase of Expenditure it will be convenient to state the increase or decrease under each Group of Heads ordinarily shown in the Indian Accounts. The following are the increases of Expenditure under each Group:—

	Increase.
	Rx.
Army Services	686,800
Post Office, Telegraph and Mint	48,800
Grant for Famine Relief and Insurance	42,600
Buildings and Roads	40,300
Direct Demands on the Revenue (excluding Opium)	13,400
Salaries and Expenditure of Civil Departments	10,800
TOTAL	842,700

"The increase under Post Office, Telegraph and Mint calls for no special remarks. It is due to the development of the Departments concerned, and is accompanied by a more than proportionate increase of Receipts. That under Buildings and Roads occurs in Military Works Expenditure: the grant for 1892-93 was below the normal amount. The increase under the Famine Grant is merely a matter of account.

"The small increases of Rx. 13,400 and Rx. 10,800 do not require special notice, but the increase of Rx. 686,800 under Army Services is of more

importance. Of this sum, Rx. 240,000 is due to the increase in the pay stated in rupees of British troops serving in India and is caused by the fall in the rate of exchange. This portion of the increase has already been taken into account in dealing with the question of Exchange and may be excluded from the present calculation.

"The following are the principal causes of the balance of the increase in Expenditure on Army Services (Rx. 446,800):—

	Rx.
Provision for the Kajuri Kach Force, the Kurram Escort, and Arrear charges of the Chin and Lushai Expeditions	174,000
Increased Expenditure on Ordnance Establishment and Stores	88,200
Rise in the price of food and forage and increase in the number of transport animals to be fed	70,000
Transport and supply arrangements for Gilgit	30,000
Increased cost of clothing for British Troops	27,100
TOTAL	389,300

"The decreases in Expenditure during the coming year, 1893-94, are as follows:—

	Decreases. Rx.
Interest	233,200
Construction of Railways	118,300
Special Defences	18,600
Miscellaneous Civil Charges	32,400
Irrigation	8,600
TOTAL	411,100

"Of the items of decrease, the only one that requires special explanation is that under Interest. Speaking generally, this decrease may be said to be due to the transfer of Rx. 10,792,490 of the 4½ per cent. Loan during the current year to a 4 per cent. loan, thus effecting a saving of Rx. 54,000, and to the continuance of the practice of applying the surpluses of past years to the construction of Railways and Canals, and thus obviating the need for borrowing. On the other hand, there is an increase of the interest charge on increased deposits in Government Savings Banks. The reduction under Construction of Railways is due to the fact that we have no surplus Revenue to devote to such a purpose.

"The final result at which we arrive is that, if we exclude the indirect increase of Expenditure in India caused by the fall in the rate of exchange,

and leave out of account Opium Expenditure and the Expenditure in the Railway Revenue Account (for both of which a net figure has been taken), there has been an increase of Expenditure under certain heads in the Estimates of 1893-94 as compared with those of 1892-93 of Rx. 602,700, of which Rx. 446,800 is due to higher Expenditure under Army in India, and that there is a decrease under all other heads of Rx. 411,100.

"I am now in a position to summarise in a few words the causes that have brought about a deficit of Rx. 1,595,100 in the Estimates of 1893-94 as compared with the surplus of Rx. 146,600 shown in the Financial Statement for 1892-93. In the first place, the fall in the rate of exchange has caused increased Expenditure to the amount of Rx. 2,229,400; in the second place, net Opium Revenue is worse by Rx. 338,400, and in the third place, the cost of Army Services in India (excluding pay of British Troops) is greater by Rx. 446,800. The total deterioration from the three causes I have mentioned is Rx. 3,014,600. There is on the other side of the account an improvement in ordinary Revenue in India to the extent of Rx. 647,700, an improvement of Rx. 221,100 in net Railway receipts in India, a reduction in the net sterling charge which reduces Expenditure by Rx. 148,900, and a reduction in Indian Expenditure (excluding Opium, the Railway Revenue Account and Army Services) of Rx. 255,200. The total improvement is Rx. 1,272,900, and deducting this amount from the total deterioration of Rx. 3,014,600 we get a net falling-off of Rx. 1,741,700, which is just sufficient to account for the surplus of Rx. 146,600 shown in the Budget Estimates of 1892-93 being converted into a deficit of Rx. 1,595,100 in the Estimates of 1893-94.

"The figures may be stated in the following manner:—

Deterioration.	Rx.	*Improvement.*	Rx.
Exchange	2,229,400	Increase in Ordinary Revenue in India	647,700
Reduction in *net* Opium Revenue	338,400	Reduction in *net* sterling Expenditure	148,900
Increased cost of Army in India, excluding increase in pay of British Troops due to fall in exchange . .	446,800	Reduction in India Expenditure, excluding Opium, Railway Revenue Account and Army Services	255,200
		Improvement in *net* Railway Receipts	221,100
TOTAL .	3,014,600	TOTAL .	1,272,900

"Section IV.—Present Position and Future Policy.

"The Revised Estimates of the current year show a deficit of Rx. 1,081,900; the Budget Estimates of the coming year show a deficit of Rx. 1,595,100. The

prospects of the future are disheartening because, although the ordinary Indian Revenue grows rapidly, the fluctuations in Exchange are such as to set all calculation at defiance. The increase in Expenditure during the last two years, caused by the fall in the rate of exchange, amounts to Rx. 4,142,400, and the increase of Expenditure due to this cause has not yet come to an end. The heavy fall in the rate of exchange has most seriously affected the position of Government servants not domiciled in India; their case cannot be put on one side much longer, and, as matters now stand, no remedy is possible which does not involve further increase of Expenditure.

"We have, also, to take into consideration the possibility of the United States stopping their purchases of silver; the effect of which on the rate of exchange must be serious and might be disastrous. It has been found necessary to take net Opium Revenue for the coming year at a lower figure than has appeared in the Estimates during the last 22 years.

"Under the circumstances stated in the preceding paragraph the natural and ordinary course would be for the Government of India to at once take such measures as would suffice to cure the existing deficit and establish equilibrium between Revenue and Expenditure. Financial embarrassment gathers weight and force the further it proceeds, and it is the obvious duty of every Government to allow no avoidable delay to occur in dealing with a declared deficit. Postponement of action cannot be justified except on grounds of irresistible weight.

"It will be found on examination of the existing position that there are insuperable objections to any attempt to deal with the anticipated deficit of 1893-94 at the present moment. The immediate cause of our financial difficulties, and the cause which, by comparison and for the time being, dwarfs all others, is the fall in the gold value of silver, which, as I have already shown, has added to the Indian Expenditure in two years more than four crores of rupees. If that fall could be stayed and the rate of exchange with England fixed permanently at even its present low figure, the difficulty of dealing with the present deficit would be comparatively light. The Revenue continues to grow in a satisfactory manner; even under the influence of indifferent seasons and poor harvests it has made fair progress. If we could feel assured that there would be no further fall in exchange, I have little doubt that increase of Revenue, restriction and reduction of Expenditure, with possibly some taxation of a temporary nature, would, in a very short time, re-establish equilibrium. A serious effort would no doubt be required in the first instance, but with a fixed rate of exchange we would have a definite task before us and our measures could be regulated accordingly. But it unfortunately happens that,

unless some settlement of the currency question is obtained, there is no prospect of even the most moderate degree of stability in the rate of exchange. The disastrous and unprecedented fall in the gold value of silver which has been experienced during the last few years has destroyed confidence, and we know that the question of stopping their purchases of silver is being seriously agitated in the United States of America. The exact consequences of such stoppage it is impossible to foretell, but the conclusion I have come to is that the consequences would, at any rate for a time, be disastrous to the Indian Exchequer, and that the Government of India would in such case be involved in pecuniary difficulties of greater magnitude, and more lasting in their effects, than any which have hitherto been experienced in this country.

"The imports of silver into India during the current year and the two preceding years have been of great magnitude. In the year 1890-91 the net imports of silver were Rx. 14,175,136, in 1891-92 they were Rx. 9,022,184, and in 1892-93 they promise to amount to Rx. 13,000,000. If the United States ceased to purchase silver, the best calculation I have been able to make shows that India would have to absorb about Rx. 8,000,000 worth of silver yearly in addition to what she imports already, and it is impossible to contemplate such a contingency without grave apprehension.

"The consequences of a forced and sudden addition to the yearly imports of silver into India of Rx. 8,000,000 in a single year would, in the first instance at any rate, be overwhelming, and I should expect that the Eastern Exchanges would be for the time completely disorganised. The fall in the gold value of silver would be so great that the production of silver might be curtailed, but we cannot be certain that this result would follow, or to what extent it would follow, and, as mines that are in full working could not, and would not, be stopped immediately, the process of reduction would take time. If such reduction of output did take place, it would be due to the fall in the price of silver, and would not last longer than the fall in price lasted: every rise in price would be followed by increased activity at the mines and would tend to restore production to its old figure. In short, the stoppage of the purchases of silver by the United States must result in a great fall in the price of that metal, and, though a portion of the first fall might be recovered, it cannot reasonably be expected that, under such circumstances, even the present price of silver would be restored; confidence in the future would be still further weakened, and fluctuations in exchange, of excessive amount and most injurious in their consequences, would be inevitable.

"I have now shown what we must expect if there is no settlement of the currency question, and if the United States stop their purchases of silver. The prospect of a settlement of the currency question lies on the other side of the

shield. A settlement of this question would prevent any further fall in exchange, and would be likely to bring about, at the very least, some slight rise.

"It is no violent hypothesis to assume that a settlement of the currency question might raise the rate of exchange by one penny, and so great is the influence of exchange on our finances that a rise of even this small amount would give us equilibrium between Revenue and Expenditure in the coming year, and cause our present financial difficulties to disappear.

"In other words, our financial position for the coming year is at the mercy of Exchange and of those who have it in their power to affect in any way the price of silver. If we budget for the present deficit of Rx. 1,595,100 and exchange rises one penny, we shall have a surplus; if it falls a penny, we shall have a deficit of more than three crores; if we impose taxation to the extent of one and a half crores of rupees, a turn of the wheel may require us to impose further taxation of not less magnitude; another turn, and we may find that no taxation at all was required. It will be obvious from what I have just said that what we have got to consider in making our arrangements for next year is not so much the question of increasing the public Revenue, or restricting that portion of the public Expenditure which is under our control, but the chances of a settlement of the currency question.

"I regret that I am unable to give any more definite information regarding the prospects of a settlement of this question than the public at present possess. We know that the question excites the greatest interest in the United States; and we know that, even if the people of that country were willing to let it sleep, the inexorable logic of events will force them before long to take a fresh departure either in one direction or in the other.

"The International Monetary Conference which recently assembled at Brussels separated without arriving at any definite conclusions, but it is proposed that it should re-assemble in May. We do not know whether that proposal will be carried out or not, but in the meantime the currency question as it affects India is being considered by a Committee of experts in London under the presidency of the Lord High Chancellor of England.

"The proceedings of that Committee are secret, and the Government of India have no information as to what the nature of its Report will be, or as to whether the Committee will agree upon a unanimous Report or not. But we know, as do the public, that the Report of the Committee will be made very shortly, and the Government of India have been informed by Her Majesty's Secretary of State for India that the decision on the Indian currency question cannot be delayed much longer. Under these circumstances the Government

of India have decided—and the soundness of the decision does not appear to me to admit of dispute—that the proper course is to await the decision of the Home authorities on this question before adopting measures, which must necessarily be of a stringent and exceptional nature, with the object of re-establishing equilibrium between Revenue and Expenditure. The immediate restoration of equilibrium would require the imposition of heavy taxation or a large reduction of Expenditure; and yet neither this taxation nor reduction of Expenditure, or even a combination of both means, would be final, or anything better than a temporary makeshift, if the currency question is not settled; measures that might suffice to meet the existing deficit would, in my opinion, be wholly inadequate if the United States ceased to purchase silver. I submit that the Government of India cannot be expected to initiate a policy at the present moment which must have very serious effects on the industry of the country, and disturb and unsettle the Administration, when the lapse of only a month or two might, and in all probability will, show either that their policy was mistaken and their measures uncalled for, or that that policy is wholly insufficient to meet the requirements of the case, and that their treatment of the disease had irritated the patient without materially advancing his progress towards health.

"Disappointing as this decision may appear to some persons, and strongly as I am opposed to delay in dealing with financial embarrassment, I entertain no doubt that the course which the Government of India (with the sanction of Her Majesty's Secretary of State for India) have decided to adopt in the present conjuncture is the wisest under the circumstances; and I trust that the Indian public will acknowledge the difficulties of the present position, and will not press for a hasty decision, or the inconsiderate adoption of measures which must, from the very nature of the case, prove to be either inadequate or unnecessary.

"The Government of India having decided to budget for a deficit of Rx. 1,595,100, and the various Local Governments having decided to draw upon their Provincial and Local balances and to budget for expenditure in excess of their Revenue for the year by Rx. 751,200, the question of Ways and Means for the coming year becomes one of unusual importance.

"We have to find money to cover the deficit of Rx. 1,595,100 in the Imperial Account, and of Rx. 751,200 in the Provincial and Local Account; we have also to find Rx. 3,550,000 for Expenditure on Railways and Canals, which is not charged against Revenue; and we have to provide funds for loans to Local Bodies, agriculturists, and others, to an extent (excluding the repayment of the balance of a loan by the Bombay Port Trust) which involves a net outgoing of Rx. 327,900.

"We have also to meet the payments by the Secretary of State not taken into calculation in any of the above amounts to the extent of £1,889,100,

amounting, at the exchange of 1*s.* 2¾*d.*, to Rx. 3,070,400, of which about one-half only will be recovered in India from the remitters.

"The task appears, at first sight, a formidable one, but I am glad to be able to say that a loan of 300 lakhs of rupees, to be raised in India, will, so far as can be judged at present, be sufficient to meet all our wants. The amount of this loan is less by 55 lakhs of rupees than the amount which we propose to spend on Railways and Canals and to charge otherwise than against Revenue, and is probably not in excess of the amount which might be raised yearly in the Indian market without producing any serious disturbance.

"As the Government of India have not borrowed for some years, and Government Securities now stand high in price, it may be anticipated that the loan will be raised on favourable terms.

"This satisfactory result as regards the amount to be borrowed is partly due to the high cash balance of Rx. 15,204,200 with which we expect to open the coming year. It is anticipated that the cash balance will be reduced during 1893-94 by Rx. 2,561,100. It is also due in part to the large net deposits in Government Saving Banks which we are now receiving. The figures of net receipts for the past two years, and the estimated receipts for the present and coming years, are as follows:—

	Rx.
1890-91	530,400
1891-92	824,100
1892-93	977,200
1893-94	811,000

"The Bombay Port Trust has taken advantage of the favourable condition of the money market and proposes to repay on 1st April next a loan of Rx. 616,100. The Rampore State will also pay the balance (Rx. 220,000) of the amount it is providing for the construction of the Moradabad-Rampore Railway. The Ways and Means of the year are proportionately strengthened.

"It is expected that the drawings of the Secretary of State will amount to £17,200,000 in the current year and to £18,700,000 in the coming year, making £35,900,000 in the two years. The large amount of these drawings may give rise to the erroneous belief that there has been a great and permanent increase in the Home charges. This is not the case. The Home Expenditure of the last four years has been as follows:

	£
1890-91	15,568,875
1891-92	15,974,699
1892-93 (Revised Estimate)	16,563,600
1893-94 (Budget Estimate)	15,843,800

"The increased drawings are largely due to payments for Railway stores, and to repayments of money received in former years from Railway Companies, and such repayments, though inconvenient at the present time and involving a considerable temporary addition to the Home charges, will have a beneficial effect on the balance of India's indebtedness in the future.

"I have already explained that our position in the coming year depends almost entirely on the course of exchange, and, though I must recur to the subject again, I have no intention of adding to the mass of literature that has grown up in connection with the currency question.

"The arguments for, and against, an International settlement of that question, and the arguments for, and against, independent action on the part of India, appear to me to have been exhausted. Every scheme that it has been possible for human ingenuity to devise has been elaborated with the utmost care, and pressed on the attention of a perplexed and suffering public as being, in the opinion of its authors, a safe and infallible remedy for undoubted evils. I must plead guilty in my own case to having added something to the burdens of the patient public, but I hope I have not, as sometimes happens in the heat of argument on the currency question, ever used language which conveyed the impression that I looked upon the man with whom I had the misfortune to differ in opinion as being necessarily a person of doubtful honesty and deficient in ordinary intelligence. If I have done so, I retract and apologise. The matter is too serious to permit of any weight being attached to merely personal considerations, and I think I may now fairly call on the disputants to recognise that the suit has, for the time being, passed beyond the stage of pleading and of argument, and that it only remains to await the decision of the tribunal. If the members of that tribunal decide that a remedy is possible by means of independent action on the part of India and should be tried, let us, whatever our private and personal opinions may be, accept that decision and loyally endeavour to give effect to it. In asking others to accept a decision which they may, possibly, not wholly approve, I am not requiring them to do something which I am not prepared to do myself. The remedy which I have always advocated, which I still prefer, and which I hope may some day be adopted, is the solution of the currency question by International agreement; yet this is the solution which at the present moment is not under consideration.

"If, on the other hand, it be decided that, having regard to the interests of India in their widest sense, no remedy for our undoubted difficulties by means of independent action on the part of this country is practicable, or should be attempted, it will be our plain and obvious duty to address ourselves, as best we may, to the task of establishing, securing and maintaining the integrity of the financial position of India. That task may be a heavy one, but difficulties

that are met in the right spirit are already half overcome, and I have confidence in the resources of the country and in the industry of its people.

"In the first Financial Statement which issued under my name just four years ago, after calling attention to the financial dangers that threatened us in connection with the question of Exchange and the fall of the Opium Revenue, I remarked that, 'if we could get rid of the Exchange difficulty, I should be prepared to adopt a hopeful view of the future, and, if there were in addition no risk of a great war, I should look forward to our progress in coming years with as much confidence as it is ever safe to feel in financial matters.'

"In the following year, when dwelling on the improvement that had taken place in the course of twelve months and on the grounds for expecting further improvement in the immediate future, I added the following words:—

'I fully recognize that we have difficulties of no slight magnitude still to meet, that the finances are exposed to many dangers, and that unforeseen disasters might for a time upset our calculations. There is every need for caution and for economy, and I should greatly regret if anything I now say, or have said in the past, conveyed the impression that the Government of India are in a position to embark on a policy of adventure of any description.'

"When I made these remarks the tide of Indian financial prosperity was rising, and it was held in some quarters that the policy I advocated was unnecessarily timid. The remission of taxation, it was said, would relieve the springs of industry, and public works should be vigorously prosecuted with funds raised by gold loans in London.

"One of those disasters, the occurrence of which a study of the history of the Indian finances, and more than twenty years' practical experience of their working, had taught me to regard as possible at any moment, and on the shortest warning, has now come upon us, and I do not think the critics will look back with much satisfaction to the opinions they formerly expressed; for my part I have no wish to dwell on the subject, and I recall the matter at the present time merely with the object of adding force to what I have now to say.

"Even under present circumstances, when the horizon is dark with the approach of what may prove to be the greatest financial convulsion of the present century, I do not draw back from the opinion I formerly expressed that the revenues of India are adequate to meet her wants; but I wish to say in the most emphatic terms that, if the Ship of State is to pass successfully through the storm which she is now entering, our measures must be taken in due time, must be regulated by prudence and forethought, and must be carried into execution with strict regard to economy."

LAND ACQUISITION ACT, 1870, AMENDMENT BILL.

The Hon'ble MR. WOODBURN presented the Further and Final Report of the Select Committee on the Bill to amend the Land Acquisition Act, 1890. He said that the proposals made to the Council in February last had been circulated to all Local Governments in India, and that their replies had been received and considered. The proposals then made had met with general acceptance. There was one important amendment, however, received from Bombay which the Select Committee had not seen their way to accede to of which detailed notice was made in the Report, but there had been several useful and valuable suggestions made by His Honour the Lieutenant-Governor and the High Court of Bengal and by the Government of Bombay itself which the Committee had been glad to incorporate in the Bill. In the Committee's recommendations they had explained that they proposed in the interests of convenience that the Act of 1870 should be formally re-enacted with the amendments which they had now the honour to propose.

INLAND EMIGRATION ACT, 1882, AMENDMENT BILL.

The Hon'ble SIR PHILIP HUTCHINS moved that the Report of the Select Committee on the Bill to amend the Inland Emigration Act, 1882, be taken into consideration. He said:—"I am surprised to find that the Government of India has been accused of undue haste in the prosecution even of this measure. So far as my personal inclinations go, I should only be too pleased to seize any reasonable excuse for letting so difficult and intricate a subject stand over as a legacy to my successor; but it does not seem right that an Administration which has, at least to some extent, mastered its main difficulties should shirk its final determination. It is now three years since the whole subject of Assam labour and emigration was discussed in one of the most exhaustive, and perhaps also one of the most voluminous, reports I have ever seen—a report comprising 204 lengthy paragraphs and extending over 350 pages of printed foolscap. And nearly a year has elapsed since our conclusions upon this report and all our correspondence on the question with the Secretary of State and with the Local Governments concerned were given to the public. The Bill in which these conclusions were formulated is therefore nothing new: it merely gives expression to a policy which we proclaimed to the world a year ago. And even then that policy could not claim novelty as one of its recommendations. If there was one thing more than another which struck me when I first took up the subject, it was the number of divergent Acts

which had followed one another in quick succession—there were at least five in less than twenty years; and the keystone of the advice which I eventually submitted to my colleagues was that we should have no more empirical legislation, but should content ourselves with improving and shaping towards our final object those methods which employers and labourers and others interested had themselves chosen and developed as most suitable to existing conditions. In a word, our declared policy is to bring the law into harmony with actual facts, and to prepare the way for really free emigration and absolute liberty of contract. That being so, most of the provisions of this Bill required very little consideration indeed. The Committee which has reported upon them was thoroughly representative, and I have no doubt that, so far as its members are agreed, the Council will not hesitate to adopt their conclusions without my troubling them with further explanations. There are but three points upon which there is any difference of opinion, and these will now be brought to issues which this Council is quite competent to decide. Only one of the three—the duration of the penal contract—really arises out of the Bill as formulated.

"We have, however, received quite recently one extremely hostile criticism to which it is necessary that I should make at least a brief reply. It emanates from the Indian Association and must be in the hands of each Hon'ble Member. It is an attack not so much on the Bill now on the table as on the Act of 1882—not so much on what we propose to do as on what we have left untouched; and this is but natural, for it professes to be written in the interests of the coolies, and everything that we propose to do is calculated to advance their interests and perfect their protection.

"Excluding for the present the questions of malpractices in recruitment and compulsory initial registration, the Association's objections may be summed up under five heads:—

(1) it is said that the special legislation of the Act is for the benefit of a particular class—the employer;

(2) it is urged that such special legislation is no longer necessary;

(3) it is alleged that the recorded opinions of officers show that it operates injuriously to the labourer;

(4) it is stated that Act XIII of 1859 has been condemned by high officials and should be declared inapplicable to tea-garden contracts;

(5) it is affirmed that the conditions of child-life on a tea-garden are unfavourable, and that the mortality among children and infants is unduly high.

"A general observation which I have to make with regard to all these objections is that they are only supported by fragmentary extracts from reports, and that all these extracts relate to a period before 1887; the Indian Association have altogether overlooked the very elaborate enquiries into the condition of the tea-garden coolie made in the years 1889-92 by or under the direction of Sir Dennis Fitzpatrick, Mr. Quinton and Mr. Ward, and it is upon the results of these enquiries that our conclusions are mainly based.

"I will now take up in order each of the objections which I have just specified.

"The first objection, which suggests that Act I of 1882 is maintained merely in the interests of the tea-industry, proceeds on an entire misapprehension of the case. The objects of the special legislation were fully explained in an extract which I will now read from our published Despatch of 5th October, 1891, to the Secretary of State:—

"It is desirable at the outset to guard against the supposition that special legislation is maintained merely in the interests of the tea-industry. The Provinces from which the labour-force for tea-gardens is mainly drawn, known as the recruiting Provinces under the present law, are Bengal and the North-Western Provinces; and the principal recruiting areas are either densely-inhabited districts, such as many in Behar and the North-Western Provinces, where the means of subsistence are insufficient for the support of the entire population in tolerable comfort, or such tracts as Chota Nagpore, where, though population relatively to area does not appear excessive, wages are extremely low and the labouring classes are unable, without some relief by emigration, to obtain a decent livelihood. The Lieutenant-Governor of Bengal in his special report informs us that Rs. 20 represent seven months' wages for an able-bodied man in Chota Nagpore, and that from a period antecedent to the commencement of labour legislation the labouring classes of this locality have looked to emigration to Assam as a means of improving their condition. We invite attention in this connection to the enquiry into the economic condition of the lower classes of the agricultural population made by this Government in 1887-88, the results of which were reported with our Despatch No. 3 (Famine), dated 30th October, 1888. Your Lordship will there find an account of the tendency towards poverty and pressure among the landless and labouring classes in certain areas which it has been our steadfast endeavour to counteract by emigration. During the recent scarcity in Orissa and in the adjacent districts of Madras there was a sudden development of emigration to Assam from Ganjam and Vizagapatam, and the Madras Government asked us to legislate with a view to ex-

tending the recruitment provisions of Act I of 1882 to that Presidency; and a similar application, assented to by the Local Administration, has recently been made on behalf of the tea-industry for the extension of the Act to the Central Provinces, which are already used as a recruiting field. It has been the settled policy of this Government to promote emigration from areas which are over-populated and liable to famine to others enjoying more favourable conditions; and the importation of immigrants to Assam at the expense of persons interested in the tea-industry has done much towards opening out and colonizing the fertile but sparsely-peopled districts of the North-Eastern Frontier.'

"The Assam system is based on precisely the same policy as our system of Colonial emigration. For whose interests does the Association suppose that we have sanctioned and still continue emigration to Dutch Guiana? or that we allowed, and would have continued if the Indian labourers had been well treated, emigration to the French Colonies of Réunion, Martinique and Guadeloupe?

"The second objection assumes that the need for special legislation has ceased. As to this I need only remind the Council that the question whether it is necessary to continue special legislation for the control of labour emigration to Assam was the chief point which formed the subject of enquiry in 1885, and again recently. The opinion that special legislation was essential in the interests of the labourer as well as of the employer, and also in the interests of good administration, was emphatically expressed by my hon'ble friend Sir Charles Elliott in 1885, and accepted by the Government of India and the Secretary of State. The same opinion was expressed by Sir Dennis Fitzpatrick in 1889 and by Mr. Quinton in 1890; and the Government of India have again been constrained to accept it, after very careful consideration, subject to this reservation—that everything which is practicable, consistently with the present conditions of emigration and of the tea-industry, shall be done to prepare the way for the gradual abandonment of the labour system sanctioned by the Act. We might indeed have had some doubt on the point if the Surma Valley alone had been concerned, although there are parts of Cachar almost as difficult of access as many of the Colonies; but there was quite a consensus of opinion that the districts along the Upper Brahmaputra still require the special law.

"It has indeed been urged that, if the more accessible districts do not require a penal contract, it should not be allowed for the benefit only of more remote gardens; that these ought to attract labour by paying higher wages. But this argument loses sight of the fact that the special law is necessary to protect the nearer garden against the enticement of the coolies which it has exerted itself to import, quite as much as to facilitate such importation in the first instance.

"On the point that the Act system operates to the injury of the labourer the only opinions quoted are those of Messrs. Porteous and Stevenson and of Mr. Ward, the present Chief Commissioner of Assam. Dealing, first, with the opinion of the two first, I need hardly say that it is only natural that different officers should hold different opinions about the working of such an elaborate system as that of this Act. A prudent person will weigh one opinion against another, and look to the character and experience of those who express them: if we are only to take action when there is perfect unanimity, the world would stand still. Here, however, we are asked to undo what has been already done, because many years ago two or three gentlemen did not approve of it. On the other side we have the repeated assurance of successive Chief Commissioners—Sir Steuart Bayley, Sir Charles Elliott, Sir Dennis Fitzpatrick, Mr. Quinton and even Mr. Ward himself—that the tea-labourer in Assam enjoys far more favourable conditions than those which fall to the lot of his fellows in his native district. I would further observe that Mr. Stevenson's remarks related to the district of Sylhet—a district in which the Act was less used in proportion to its labour-force than in any other; and that Mr. Porteous was writing with reference to the Karimganj Subdivision, the most advanced part of this (in this respect) advanced district. No observations as to Sylhet can be taken as applicable to the labour-districts generally. As for Mr. Ward's remarks, these have been quoted apart from their context and will not bear the construction put upon them. His opinion as to the expediency of retaining the Act has been recently emphasized by his strong opposition to any reduction in the term of engagement permissible.

"The next point is the question as to the retention of Act XIII of 1859 in its application to garden-contracts. It is perhaps somewhat inconsistent of the Association, while objecting altogether to special legislation as such, to ask that this Act should be declared inapplicable to Assam when it is in force in most other parts of the country. It is, however, in one sense a special Act, and doubts have at times been expressed whether it is really applicable to garden-contracts. Sir Charles Elliott proposed in 1882-83 that it should be declared inapplicable—by legislation, I presume; and the Government of India in 1885 were inclined, on theoretical grounds, to concur in this view. They accordingly directed an inquiry in Assam with a view to taking action in this direction; and it is remarkable that three successive Chief Commissioners, who enquired into practical working of the Act with a view to its repeal; Sir Dennis Fitzpatrick, Mr. Quinton and Mr. Ward—have declared themselves distinctly in favour of allowing it to be applied to tea-garden contracts as a part of the ordinary law. The Government of India have

accepted this view, as they are satisfied that this Act is more lenient and popular from the labourers' point of view than Act I of 1882, and also because it seems to be serving a useful purpose as a stepping-stone from Act contracts to free labour. I will read a very short extract from the Government of India's Despatch of October, 1891, showing that the objections to this Act are merely theoretical:—

'Side by side with Act I contracts another system of contracts, not recognised by the special law, has come largely into use, based upon Act XIII of 1859. We have pointed out that, however objectionable in theory and opposed to the spirit of modern legislation in England, in its practical operation this Act has been harmless and even beneficial; that it is used chiefly on healthy gardens and for labourers who can be relied upon not to desert; that among the coolies contracted under it the death-rate is low, the rate of desertions still lower, wages high, and judicial punishments only about 4 a year to every 10,000 coolies. In the Surma Valley this system is very popular with employers as well as with labourers, and is facilitating the transition from officially controlled to free labour. In view of these facts, and of the great dissatisfaction which its repeal would create among all classes concerned, we do not think that we should be justified, on the information now before us, in withdrawing this Act from tea-gardens.'

"I pass on now to the last point urged by the Association against the labour-system as carried out in the tea-districts. It is suggested that the mortality among children and infants is excessive, and the remarks of one medical officer are quoted, showing the unfavourable conditions under which, in his opinion, children are brought up on tea-gardens. But it so happens that the very remarks which are quoted by the Association as having been made by this officer in 1884—nine years ago, be it remarked—were circulated for the opinion of district officers by Sir Dennis Fitzpatrick in May, 1889, in his exhaustive circular directing an enquiry into the working of Act I of 1882; and the district officers' replies are given at length in Mr. Quinton's Special Report. The conclusion arrived at was that, though there is much that is unfavourable in the conditions of child-life on a tea-garden, as elsewhere among the poorer classes, the remarks of this officer were much exaggerated; and that he had been misled into drawing general conclusions from the peculiarly unsatisfactory state of things on an individual garden, in which the death-rate among children had certainly been high. Moreover, there is nothing whatever to show that even on that garden the high infant mortality had anything to do with the labour-system. Women who depend on daily wages for their subsistence often do neglect their offspring everywhere. They are less likely to do so on a garden where they have permanent employment, and such considerate treatment as I

known is generally given by the planters of Assam, even for their own sake, than if they were hired day by day.

"It is difficult to compare the reported death-rate among children on tea-gardens with that prevailing elsewhere, as the statistics are not clearly shown in the Provincial Sanitary Reports, but for the satisfaction of the Council I have had the following figures compiled from such data as we possess. I find from the Assam Annual Immigration Reports that the death-rate per 1,000 among children *under 16* on tea-gardens ranges from 25·6 to 36·4. The figures for the last six years have been—in 1886, 36·4; then 31·7, 34·0, 33·5, 25·6, and in 1891 30·7.

"On the other hand, the Provincial Sanitary Reports show that the death-rate per 1,000 of children *under 15*—unfortunately the age limit differs by one year—among the general population was as follows in each province for the year 1891:—

Madras	30·89
Bombay	36·01
Bengal	30·12
North-Western Provinces and Oudh	40·45
Punjab	34·81
Central Provinces	48·76
Burma	19·28
Assam	32·65
Berar	64·05

"It is certain that the registration of deaths is, at any rate, not less accurate on tea-gardens than among the general population, and the above figures do not point to any excessive mortality among children on tea-gardens. In fact, the garden-rate for 1891, though much higher than that of 1890, was nearly the same as that returned by Bengal and Madras, and lower than the figure of every other Province, except Burma, where little reliance can be placed on the statistics.

"The only other point, affecting the working of the system in the labour-districts, which arises out of the representation of the Association, relates to the verification of labour-contracts entered into direct between the employer and the labourer under section 111 of the Act. As to this I need only refer to the published correspondence as showing that the Government of India have given most anxious consideration to this subject. They have laid down, as a condition to be rigidly insisted upon, that all such contracts must be verified, and one of the most important executive questions which have been discussed with the Chief

Commissioner is the necessity of having more frequent and better inspection. I may also remind Hon'ble Members that the Bill now before them limits to one year the term for which contracts may be entered into between employer and labourer without the intervention of a public officer. This is the only class of contracts which require verification.

" With regard to the subject of initial registration, as well as with regard to abuses in recruitment, I propose to reserve my observations. Two Members of the Committee seem to be in favour of making such registration compulsory, or at least optional subject to such conditions as will make it compulsory; and if they press their view I shall have a right to reply. The point was thoroughly threshed out in 1882, and the published papers show very clearly why we could not revert to the old system. I also referred to the matter at some length when I introduced this Bill. At present I need only point out to the two Hon'ble Members concerned that if their view is pressed and should happen to prevail, the practical result must be the withdrawal or re-committal of the present Bill, most of the provisions of which are directed to a system of free or privately-assisted emigration, and to remedy mischiefs arising out of that system or defects which have been discovered in it. The immediate consequence then would be that the labourers will be deprived of that fuller protection which we had hoped to secure to them; but the ultimate consequences would, in my opinion, be far more serious. Emigration would again be brought under the irksome legal trammels from which for the last ten years, it has been emancipated: it would be forced back into those official channels which both labourers and employers regard with so much dislike: and the consummation to which we all look forward—the abandonment of special legislation and the substitution of free for officially controlled labour—will be indefinitely postponed.

" Another amendment of which notice has been given proposes to raise the age at which a labour-contract is permissible from 16 to 18. This is a new point which has never before been discussed and was first raised in Committee. I did not think I could accept the proposal to alter the law, which was doubtless fully considered in 1873 and 1882, without giving the Assam employers and authorities an opportunity of considering its practical consequences and submitting their views. I am, however, willing to undertake, on behalf of the Government of India, to refer the question without delay, and either to publish the result or to bring in a Bill to raise the age according as the decision at which we ultimately arrive may be against or in favour of the Hon'ble Mr. Chentsal Rao's amendment. Perhaps under these circumstances the Hon'ble Member will withdraw

his amendment. But he must not misunderstand me. I am willing, I say, to give this undertaking, not because I am personally satisfied that the change is desirable, and far less because I admit that work on the plantations is specially trying, or that there is any real danger of minors being decoyed away; but because I sympathise with my hon'ble friend's anxiety to protect them against any possibility of such a thing. On the other hand, the Council will doubtless bear in mind that the ordinary age of majority under Hindu law is 16, and that under the Penal Code it is no offence to take away a male of 14 or a female of 16, with his or her consent, from lawful guardianship. A person of either sex, aged 14, is reckoned as an adult under the Factory Act, and a youth of 16 to 18 is generally married. If, therefore, the amendment is pressed, I shall vote against it. I cannot see why a labourer in the labour-districts should be incapacitated—and the amendment would have this effect—from entering into a contract and securing a bonus, simply because he is not yet 18.

"Lastly, there is the question whether the term for which labour-contracts may be permitted should be three, four or five years. It was raised to five years in 1892. We proposed to reduce it again to three as a long step in the direction of abolishing penal contract altogether. In Committee, however, the Hon'ble Mr. Mackay satisfied most of us that this was going somewhat too far. The principle seems to be that the employer should be able to recoup himself from the labour of the man whom he has brought up at his own expense from the congested districts, and the Act itself has provided in the redemption section a rough measure of the value of an immigrant's labour in successive years of his contract. It was for this purpose only that the redemption section was referred to. My hon'ble friend Mr. Chentsal Rao has misunderstood the argument: the number of labourers willing or able to buy themselves off is infinitesimal. But by section 142 the value of the unexpired term of a labour-contract is fixed on the following scale: Rs. 12 for the first year, Rs. 36 for the second, Rs. 60 for each subsequent year. Thus, the value of a three years' contract may be taken to be Rs. 108, and that of an engagement for four years at Rs. 168. Allowance must be made for normal casualties, and for the men who cannot stand the climate and have to be repatriated. It seems fair, therefore, that the contract should have a margin of value over and above the actual cost of importing a well-conditioned labourer. That cost is rarely below Rs. 100 even at Dhubri, and further expenses have to be incurred between Dhubri and the gardens and on the gardens themselves. On the whole, I came to the conclusion that nothing short of a four-year contract would be fair to the employer.

"Perhaps it will be well that I should mention here the Chhattisgarh cases which have been referred to by my hon'ble friend Mr. Chentsal Rao in his minute of dissent. They do not all bear on the age question, but I may dispose of them all together:—

"Case (*a*) relates to a boy of twelve. It does not appear how the facts stated had been ascertained in the absence both of the boy and the man who took him away. I suspect that they are founded on mere surmise, but, if true, the case is one of kidnapping, punishable under the ordinary law. I observe that no report of the case was made to Assam, and the boy may have gone to one of the Colonies after registration as another emigrant's son.

"Case (*b*) seems to relate to a registered woman. If she was not registered, any detention of her against her will would amount to wrongful confinement. It does not appear what are the false pretences which were alleged to have been employed, but I rather gather that she proceeded on her journey willingly.

"Case (*c*), if it shows anything, shows how absolutely free the emigrants are at Dhubri, and how readily they obtain repatriation. It is hinted that the emigration system is responsible for this adult male not having actually returned to his village, but he was apparently anxious to go elsewhere, and he was of course perfectly free to obtain labour at a mill or factory.

"Cases (*d*) and (*e*) establish two facts—(1) that it is known to be useless to put forward a girl of 13 or 14 as ready to execute a contract, and (2) that her decoyers can be severely punished under the ordinary law.

"Case (*f*) relates to a half-witted woman of loose character; she was, however, stopped and sent home.

"Case (*g*) seems to me to make against the proposal to raise the age to 18, as it shows how easily any age-limit can be evaded where the young people are ready to lend themselves as accomplices. Here a boy and girl passed themselves off as the children of a stranger, who in his turn called himself their father. This might just as well have been done at a registration-office.

"I cannot think that any of these cases, or all of them taken together, go far to support Mr. Chentsal Rao's contention; nor do they in any way controvert the position which the Government of India have assumed, namely, that such abuses as do exist are best met by vigilance on the part of the executive officers.

"My hon'ble friend is also in error in representing that everyone was agreed as to the term being three years. On the contrary, the officer writing under the greatest sense of responsibility, the Chief Commissioner of the Province, who has also much experience of Assam and the most intimate knowledge of its present needs and conditions, has expressed himself as very strongly opposed to any reduction of the five years' term. Mr. Quinton took the same view, and so do all the Assam officers whom I have been able to consult.

"On the other hand, I am clearly of opinion that four years is a sufficiently long period, and that we should not allow private contracts to exceed one year."

The Motion was put and agreed to.

The Hon'ble MR. CHENTSAL RAO said:—"I should have gladly acceded to the suggestion of the Hon'ble Mover to withdraw my amendment, pending a reference to the Assam authorities, but for the fact that the question I raise is a very simple one, and it is difficult to see how a reference to the Assam Government can throw any fresh light. The amendment which stands in my name is briefly this.

"The general law in the matter of contracts is that no one under 18 years can enter into a valid contract, and what I propose is that the same law should apply to labour-contracts also. But section 11 of the Emigration Act enacts that, notwithstanding the Contract Act, it shall be lawful for any person of the age of 16 years or upwards to enter into a labour-contract. I have studied the debates that took place when the Act was passed, and I do not find one word of explanation in favour of the reduction of the age. If it is necessary that a man or woman should be at least 18 years old to be able to enter into a contract creating merely *civil* liability, I do not at all see why a person under that age should be declared competent to enter into a labour-contract involving *criminal* liability. The only argument advanced in the Select Committee in favour of retaining the provision was that, since men and women of 16 years commence to labour and earn their livelihood, there is no reason why they should be prevented from entering into a valid contract. This argument does not appear to me to be sound. Boys of even 12 years labour and earn their livelihood, but we cannot on that account argue that *they* should be able to enter into a valid contract. There is ample evidence that many persons who enter into labour-contract are men of a very low order of intelligence. The Deputy Commissioner of Chota Nagpore, which is one of the large recruiting districts, while proposing to raise the age of the male labourers to 18 and that of the female labourers to 20,

remarks that 'the Kol girls of 16 are too young and simple to be able to properly understand the nature of the labour-contract' and that 'it is even doubtful if youths of that age have sufficient intelligence in this respect.' Convinced, as I am, of the reasonableness of the amendment I am proposing, I should have hesitated to bring it forward if I had not the support of my colleague, the Hon'ble Mr. Stevens, who has full knowledge of the working of the Act and of the general intelligence of the class of labourers in this part of the country; and I fully trust that the matter will receive at the hands of the Council that consideration which its importance deserves.

"Without taking up, my Lord, more of your valuable time on a simple question like this, I beg to move the following amendments, and I beg that the sense of the Council may be ascertained:—

"That after the word 'repealed' in sub-section (*a*) of section 3 of the Bill as amended by the Select Committee, the following be inserted, namely:—

'for the word "sixteen" the word "eighteen" shall be substituted.'"

The Hon'ble MR. WOODBURN said that he had not intended to intervene in this discussion in any way, but he wished to explain that if Mr. Chentsal Rao pressed his amendment he would be unable to support it. As he understood the matter, a coolie when he was imported into Assam was, for all intents and purposes, a complete stranger to the place and the work. He entered upon work to him altogether novel, and he had to receive considerable instruction before he could be called in any sense an efficient labourer in a tea-garden. That being so, he thought that the ordinary law of apprenticeship should be applied in the case of the coolie labourer. He believed that in almost all departments of life the system of enlisting a recruit at an early age was in vogue. Amongst ourselves the system of enlisting apprentices at an early age was very largely practised. The soldier, for instance, was enlisted under age for foreign service; young men were brought out to merchants' offices in Calcutta under age on an agreement to serve for a certain time; and, if he might draw an illustration from his own case, he was himself recruited by the Secretary of State for service in a distant and malarious country at the age of 18, when according to credible information under English law he was incapable of entering into a civil contract, and he was given no option whatever as to withdrawing from his engagement. He thought, therefore, that there was no particular harm in allowing a labourer in this country to contract himself to an apprenticeship at the age of 16. The Hon'ble Mover might say that in his (MR. WOODBURN'S) own particular case he had the advantage over

the ordinary coolie of this country in possessing a better education and more general information; but he could say that in the case of the coolie the information was also very complete and the conditions and terms of service very accurately known. In the part of the country with which he was familiar coolies returned to their homes and brought information as to the condition of service, which he was bound to say was extremely creditable to the general body of capitalists in Assam. It was in this way that the knowledge was spread through the whole country, that any man, with health and energy, who chose to go to Assam, was certain to find remunerative employment there.

The Hon'ble MR. BUCKINGHAM said:—"I think it would be objectionable for the following reasons to raise the age of competency of entering into a labour-contract from 16 to 18 years. The change will cause inconvenience owing to the large number of grown up persons capable of work who will be sent up as dependents and not as workers, and also to the fact that many young men and women who are capable of doing the work will not be able after reaching the age of 16 on the garden to enter into a local contract under sections 111 and 112, and get the bonus which is usually given for such contracts. Moreover, while employed as children without a contract, they would receive wages at a lower rate. I further wish to observe that the work required on tea-gardens is by no means severe, as assumed in the Hon'ble Mr. Chentsal Rao's minute, and that young people of 16 are fully capable of completing their daily task in five or six hours."

The Hon'ble MR. STEVENS said:—"I propose to vote in favour of the amendment of the Hon'ble Mr. Chentsal Rao. It appears to me that the analogy of apprenticeship does not altogether hold good. Here we have the case of a young person who is recruited for a very distant, and I may say, in most cases, an almost unknown, land. He goes to new work, and at any rate he is likely to be amongst strangers. I see comparatively little objection to a local contract being entered into by such person, but, in regard to any penal contract, I think it an extremely serious thing for a young person to enter into an engagement which binds him under the severe penalties imposed upon him by our law. Many of the alleged abuses which have occurred have taken the form of recruitment of young children—I mean young children of 12, 13 or 14 years of age, and I do not think such cases are disposed of by saying that they are met by the ordinary law. I think that the amendment of Mr. Chentsal Rao would have the effect of preventing any attempt to commit such cases, because it would be known that it

would be useless, since, though such a child could sometimes be taken to be 16, he could never be supposed to be 18; and again it seems to me that it would be in accordance with the acknowledged policy of the Government to assimilate the actual contract law as far as possible with the ordinary contract law of the country."

The Hon'ble FAZULBHAI VISHRAM said that as far as he could judge it seemed to him that more harm would be done to the coolie than otherwise if the age was increased; because, as the Hon'ble Mr. Chentsal Rao had admitted, a coolie at the age of 16 was capable of work, and as a matter of fact did work, and if we precluded him from entering into a labour-contract we should deprive him of the higher rate of wages, as he would then be paid at the minor scale, as Mr. Buckingham had just pointed out, and, that being the case, he thought that it would be better to leave the age as it at present stood, namely, 16.

The Hon'ble DR. RASHBEHARY GHOSE said:—"I am prepared to vote in favour of the amendment proposed by the Hon'ble Mr. Chentsal Rao, and I may add generally for the reasons given by him and the Hon'ble Mr. Stevens. With regard to a remark which fell from the Hon'ble Sir Philip Hutchins, I do not find that there was any discussion in 1882 with reference to the age at which a coolie lad ought to be allowed to enter into a binding labour-contract. My idea is that the limit of 16 years was taken from the Bengal Act of 1873, in which I find the limit of age with regard to the capacity to enter into a labour-contract was laid down for the first time at 16 years. I have been looking into the debates on the measure in the Bengal Council before it was passed into law, but I cannot find in the discussions on the measure any reference whatever to this age question, and I imagine for the very simple reason that it was not intended by the Bengal Council in prescribing the age of 16 years to alter in any way whatever the law as it then stood with regard to the age of majority. In 1873 it was generally understood that the age of majority was 16 years, and I take this to be the reason why the matter was not noticed in the discussions in Council. The effect of the Act of 1882 is this. It lowers the age with regard to the capacity to enter into a contract of a very peculiar character, and it sets aside the ordinary law which regulates contracts by minors in order that a young coolie lad may be enabled to earn his wages by entering into a penal contract to perform services in what to him is an absolutely foreign country, amid strange surroundings and in a climate which is certainly not over-healthy. I submit that, although I can understand why, as Mr. Grimley, an officer of great experience, has pointed out, the age of majority should rather be raised in these cases, I do not see any sufficient reason why it should be lowered.

1893.] [*The Lieutenant-Governor; Sir Alexander Miller; the President.*]

His Honour THE LIEUTENANT-GOVERNOR said:—"Personally I am inclined to support the principle involved in this amendment, not only on account of the advantage of bringing the law into harmony with the ordinary contract law, but on account of the argument urged by my hon'ble friend Mr. Stevens, which is a very sound one, that the increase of the age will enable officers to draw a more distinct line between those persons who can be properly recruited and those who are enticed and persuaded to contract when they are too young for the labour of the gardens; and further because this is a step, though a very gentle step, in the direction, in which we must all wish to move, of gradually withdrawing from the penal contract attaching to labour in Assam. But I am fully persuaded that it is impossible for the Council to pass such an amendment, and by so doing upset what has been the established law since 1873, without consulting the authorities in Assam. It is far too late to bring forward a radical change of this kind in a matter as to which we have no information that the existing law is working in any unsatisfactory way, and therefore I think that the Hon'ble Mover should accept the undertaking made by the Hon'ble Sir Philip Hutchins, who has promised that the question shall be submitted to the Assam authorities, that it shall be thoroughly discussed and, if they are agreed that the change should take place, he will provide that at next year's session of this Council a Bill should be introduced to carry out this change. I should myself be glad to see it carried out, but only after the fullest discussion, and provided no material objection is raised by the persons most experienced in the working of the Act and most interested in its operation."

The Hon'ble SIR ALEXANDER MILLER said that when this question first came up for consideration his own feeling was entirely in consonance with what the Lieutenant-Governor had said, but he felt then, and he felt still, that to entertain this question, no notice having been given of it in the earlier stages of the proceedings, would be to throw over this Bill for another year, and he thought that, looking at the fact that every provision of the Bill was in favour of the labourer, rendered his position better, and gave him extra security against oppression, it would be a very unwise act, and one that the labourers would have the greatest reason to complain of, if they were kept under the Act of 1882 for another year, when they might get the great benefit of this Bill. For that reason, and for that only, he would vote against the amendment.

His Excellency THE PRESIDENT said:—"It is now for the Hon'ble Mr. Chentsal Rao to say whether he will press his amendment to a division. I have listened attentively to his remarks, and wish to say that, if I am unable to support

him, it is not because I am desirous of being understood as saying that I regard his proposal as an unreasonable or impracticable one. His suggestion that the age should be governed by the ordinary law has on the face of it a good deal to recommend it. On the other hand, the point is entirely a new one, and I think that what has been said at this table makes it clear that, if the proposal were adopted, it would undoubtedly operate as a considerable restriction upon the importation of coolie labour—a kind of restriction which we could not impose unless a very clear case was shown for it.

"The whole of the conditions of coolie labour in Assam are so exceptional and so difficult for any one who is used, for instance, to the conditions of the European labour market, to understand, that I should always hesitate, without the fullest information, to make myself a party to any new point of departure in dealing with cases of this description.

"I shall therefore vote against the amendment, but I shall do so on the understanding that the matter is to be further examined, and, should our inquiries go to show that there are sufficient grounds for adding the restriction proposed by Mr. Chentsal Rao, the question of that restriction shall be taken up and duly considered at the proper time."

The Hon'ble CHENTSAL RAO said that under the circumstances he would withdraw his amendment, as also the subsequent amendment which stood in his name, that in the first paragraph of section 7 of the Bill as amended by the Select Committee, for the word "After" the word "For" and for the word "inserted" the word "substituted" be substituted, and that the numbering of the new sections proposed by the same section for insertion in the Act be altered to 11, 11A, 11B and 11C, respectively.

The amendments were therefore withdrawn.

The Hon'ble DR. RASHBEHARY GHOSE moved that after section 4 of the Bill as amended by the Select Committee the following section be inserted, the numbering of sections from the present section 5 to the end being altered correspondingly:—

"5. After section 7 of the said Act, the following section shall be inserted, namely:—

'7A. (1) Any person assisting a native of India to emigrate to a labour-district for the purpose of entering into a labour-contract under this Act therein may take such intending emigrant before a Registering-officer having jurisdiction within the local area in which such intending emigrant resides.

"(2) If it appears to the Registering officer that such intending emigrant resident within his jurisdiction is willing to emigrate, and has not been induced to undertake to emigrate by any coercion, undue influence, fraud, misrepresentation or mistake, the Registering officer shall register, in a book to be kept for the purpose, such particulars regarding him and the persons, if any, whom he wishes to have registered as his dependents, as the Local Government may by rule prescribe

'(3) Every officer registering any person shall, if so requested, forthwith forward a certified copy of such particulars to the Inspector or Magistrate resident at the civil station of Dhubri in the Goalpara District.'

He said:—"In moving the amendments which stand in my name I do not think that it is at all necessary to trace the history of legislation connected with inland emigration prior to the year 1882. I will only observe that the present Emigration Act, which was passed in that year, made a very important innovation, which was described not altogether felicitously, as I shall have occasion to point out later on, as free emigration outside the scope of the Act. It was said that the numerous restrictions imposed under the old law hampered emigration and artificially raised the price of labour in Assam. The new departure then taken by the Legislature would, it was thought, promote the interest of a valuable industry and at the same time lead to the gradual extinction of the contractors, system to be replaced by free emigration. These somewhat sanguine expectations, I think it will not be denied, have not been fulfilled. The contractors' system is not extinct, the price of labour has not been reduced, and free emigration to Upper Assam, in the opinion of many, it would be no exaggeration to say, still remains an unfulfilled prediction. Some of the worst fears, however, of those who were then ridiculed as pessimists have been realised. The reversal of the previous policy of State-controlled emigration gave rise almost immediately to evils of serious magnitude, and the Government were obliged to interfere in 1889 for the sanitary protection of the so-called free emigrant to Assam. Act I of that year of the Bengal Council empowered the Local Government to frame rules for the health and comfort of the emigrant in transit, and one class of evils which made themselves painfully felt have been removed, by means of regulations made under the Statute. The present Bill is intended to guard against another class of evils the wide prevalence of which cannot be disputed for a moment—I mean the malpractices of recruiters working under the so-called free system, and some of the sections contain provisions directed against such abuses. But I venture to think with the greatest deference that the evils which have grown up would not be adequately met by the Bill as it stands, and it is

therefore that I beg to propose for the acceptance of Hon'ble Members the amendments which stand on the paper, and which, I may mention, have been framed on the lines of a proposal which was made by the Government of Bengal, then presided over by Sir Steuart Bayley, and which received the entire approval of Mr. Westland and the qualified assent of the late Mr. Quinton, both Chief Commissioners of Assam. This proposal was negatived by the Government of India, but on grounds which, I humbly submit, do not appear to be quite conclusive. According to the Hon'ble Member in charge of the Bill, the objections to a system of local registration are that it would be expensive, vexatious and altogether alien to the principle of free emigration which for the last twenty years the Government have sought to encourage. There would also be serious difficulties in discriminating between emigrants who had been some time in Assam and those who had not; and, lastly, it is said that initial registration would be an ineffective remedy against those abuses which really prevail, and which alone called for special measures of repression—against those cases in which the labourer, though under the influence of enticement or misrepresentation, is nevertheless a willing emigrant and himself desirous of emigrating.

"Before discussing the validity of these objections I would beg to call the attention of Hon'ble Members to the serious and widespread character of the existing abuses which were not foreseen by the framers of the Act. The letter of the Bengal Government, No 142, dated the 28th August, 1890, forcibly points out the very large proportion of cases of fraudulent enticement, often amounting to the virtual kidnapping of children and youths of both sexes, and this assertion is based, not on the irresponsible utterances of anonymous journalists or of travelling friends of humanity, but on the statements of the representatives of Government in the recruiting districts. The late Chief Commissioner of Assam also admitted that the Dhubri system was open to objection, and insisted upon the necessity for greater stringency in local registration. I may here observe that the practical operation of the so-called free system which resulted in the Dhubri contracts was never anticipated by the supporters of the Act, and it was, I believe, far from the intention of the Legislature as well as of the Government that the concessions then made should be taken advantage of for such a purpose.

"To come now to the objections to initial or local registration. It is said, in the first place, that such a system would be expensive; but, as pointed out by the Bengal Government in their letter, paragraph 26, the expense of the proceeding cannot exceed eight annas a coolie, or at the outside one rupee eight annas, if a registration fee of one rupee is charged on initial verifications. The

additional cost of initial registration is due to a distinction, for which the Bengal Government were unable to find any justification, between contracts executed in the emigration districts and those made at Dhubri. And here I might be permitted to ask, with regard to the statement that official restrictions would check emigration and render it unpopular, whether an army of five thousand unlicensed recruiters, many of whom are released convicts or men of very doubtful character, in the Ranchi District alone was likely, with their numerous malpractices, to make emigration popular in the recruiting fields. It seems to me that experience has proved that some wholesome restrictions on unlicensed recruiting are essential, not merely in the interests of the recruiter but also in the interests of the planter in Assam, and I am glad to find that the Hon'ble Mr. Buckingham quotes with approval some remarks of Mr. Driver, described as a gentleman of considerable experience in the recruiting districts in which the official registration of labourers is insisted upon. All the Bengal officials, I may say without a single exception, as far as I know, are of the same opinion. With regard to the vexations connected with official interference in any form, I would ask Hon'ble Members in the words of Mr. Grimley whether, in the face of the numerous restrictions imposed under the Bengal Act, to refuse the safeguard of official registration is not a mere straining at gnats.

"But it is said that initial registration would prove an ineffective remedy against the abuses which really prevail, and that vigorous action on the part of the executive acting under the ordinary law supplemented by the provisions of the present Bill would reduce the malpractices of the unlicensed recruiter within the narrowest limits. But, as observed by the *Pioneer* newspaper, the acts of the recruiter in many cases, and those some of the worst cases, are such that they cannot be reached by the law nor by executive action, which I presume must be controlled by law. I cannot here resist the temptation of quoting the whole passage, as the picture is by no means overcharged and as it expresses the general feeling of the country with regard to the unlicensed system.

'Boys and girls are cajoled or intimidated into leaving their homes and are carried off to Assam under false names. Married women are persuaded to desert their husbands and children, and are decoyed away under circumstances that make it practically impossible to trace them. District officers and non-officials, Europeans and natives, missionaries and managers of collieries, all alike bear testimony to the growing prevalence of kidnapping in all its various forms, and to the misery and crime which it occasions. It has been said that if the Magistrates and the police do their duty properly the worst cases, at all events, would be prevented or detected and punished, and it is in this view that the Bengal Government lately deputed a special officer of the police to conduct an inquiry into

such cases in Chota Nagpore. This view, however, leaves a great part of the question out of sight. The police can only interfere to prevent the commission of some offence, or to detect the culprit when an offence has been committed. But in many cases, and those some of the worst class, the acts of the recruiters, wicked and immoral though they are, do not constitute an offence at all. It is not an offence to entice a married woman to leave her husband and her children and become a coolie for five years or longer in Assam! It is not an offence to persuade a grown-up son to desert his parents and leave them destitute, even though his labour may be their only means of support! Even when some recruiter, grown bolder from impunity, does actually overstep the limits of the law, the chances in his favour are overwhelming. The expense of legal proceedings is almost always prohibitive to the classes concerned, while the entire freedom which the "free" recruiters enjoy from official supervision, and the ease with which names, castes and residences can be changed, render it almost hopeless to obtain a satisfactory clue.'

His Honour THE LIEUTENANT-GOVERNOR inquired what was the date of the article which the Hon'ble Member had just read, as a great deal would depend on that.

The Hon'ble DR. RASHBEHARY GHOSE said that he could not say for certain, but it was more than two years old.

The Hon'ble Member continued:—"The Secretary of State also, I may mention in passing, in his despatch No. 13, dated the 11th February, 1892, expresses his opinion that strong measures are required to amend the existing state of things. Experience shows that local registration would, in a great measure, check the abuses to which I have just referred, and my assertion is amply supported by official records.

'Emigration,' writes Colonel Samuels, 'is, I fear, in most cases tantamount to desertion of home and relatives. In my long experience of these districts I have known many instances of men and women in depôts before they were registered being persuaded by their relatives to return to their homes. To permit of this being done would be no real interference with the system of free emigration, whilst it would give every man and woman a chance of changing his or her mind before it was too late to do so, and afford a guarantee that every one who emigrated did so deliberately and without undue influence and deception.'

"The Government of Bengal in their letter say:

'The only other advantage claimed for the Assam contracts is that, in the districts of recruitment, labourers, when brought before a registrar for the execution of their engagements, may be dissuaded from emigration by their friends and relatives, as suggested by Mr. Lyall in the observations quoted in paragraph 15 of this letter. The Lieutenant-Governor is inclined to believe that this is the objection which really weighs with many

who oppose initial verification, though it is kept somewhat in the background, the allegation as to increased cost being calculated to carry more weight with those unfamiliar with the subject. It is an argument which does not commend itself to the judgment of officers in Bengal, or to the inhabitants of this province, who, on the contrary, hold that, considering the large sums paid to every professional recruiter or occasional crimp who can persuade a labourer to execute the contract in question, some opportunity of knowing what is going on should be afforded to others interested. The subject is generally treated with special reference to wives induced by *arkatis* to desert their families in consequence of some quarrel which, had it not been for the facilities afforded by the Assam contract system, would have been soon made up; the case of children is also frequently quoted, and many persons consider that in such instances registration should be insisted on, whether labour-contracts are executed or not.'

"In support of my contention I would beg to quote another passage from paragraph 14 of the same letter:—

'The Lieutenant-Governor is distinctly of opinion that, under the circumstances, Dhubri is not the most suitable station for putting labourers under statutory engagements. The best place for explaining a contract to a person liable to be deceived as to its terms—say to a Lohardaga woman—is not to be sought where her language is little known, or the officer who has to make her understand the terms of the engagement is hurried by a multiplicity of engagements; and she would be more of a free agent, to accept or reject the agreement at discretion, in her own district, among friends, than at a strange station, where she cannot find employment or ask for alms in the language of the country, and from which she can see little prospect of getting away, as she has no money to pay the return fare'

"Mr. Westland was also emphatically of opinion that the coolie recruited under the present unlicensed system is not in any sense a free agent, and that the power to put a labourer under a penal contract in the labour-districts should be withdrawn. Mr. Lyall, late Officiating Commissioner, Assam Valley, in an inspection report recorded:—

'Once the emigrants get to Dhubri, they have cast the die and are started on their journey. It is too late for them to reconsider the matter. In the district of recruitment they would be subject to influences which would often make them change their minds. The contractor would thus lose a good many of his coolies and have to charge the planter a higher price for the remainder. The cost per head to the employer would, I think, certainly rise. At present his cost varies considerably. I have heard as high a figure as ₹110 mentioned, and as low a one as ₹57 (the latter for coolies for a garden in Sibsagar); but, whatever it is now, it would be higher under the other system.

"Can the ordinary law or executive action, however vigorous, deal with such cases or cope successfully with the abuses disclosed in these official

documents? Initial registration alone, in my humble opinion, would furnish an adequate remedy and effectively check the malpractices notoriously resorted to by the recruiter under the present system, or rather no system.

"I now propose to deal with the objection to compulsory registration based on the ground that such a procedure would be altogether alien to the principle of free emigration, and, if I thought that the restriction which I propose would have the effect of checking free emigration properly so-called, I should be the last person to advocate such a proceeding. But, if by free emigration is meant the spontaneous and unsolicited emigration of natives of other parts of India to the labour-districts to work under the ordinary law, the amendment proposed by me, although curtailing the license of the so-called free recruiter, would really facilitate free recruiting by insuring that the emigrant should really be a free agent. It would give him an opportunity of declaring his intention to emigrate to some constituted authority—the course which, we are told, an emigrant in England takes when he goes to an emigration office and expresses an intention to emigrate. The delay incident on registration would afford the parent or husband some chance of recovering his child or wife. The repatriation clauses contained in the Bill would probably go some way towards mitigating the abuses attendant on uncontrolled recruiting. But, as Mr. Grimley points out, 'the arm of the law is long, but its movement is sometimes remarkably slow, and, he might have added, not always sure; and it would be a very poor consolation for a husband to recover his lost wife or a parent his missing son two or three years after their disappearance. Prevention is, as we all know, better than cure; and surely there never was a case in which preventive measures were more urgently called for in the interests of those who stand most in need of the protection of the State.

"I have one word to add with reference to the supposed difficulty of distinguishing between a new immigrant and a *bonâ fide* resident in the labour-districts. With the care which, we are assured, is exercised at Dhubri before the labourer is put under contract, and the rules under which free emigrants proceed to Dhubri under Act I of 1889, it ought not surely to be at all difficult to distinguish between the two classes, and even Mr. Quinton admits that the difficulty would not be insurmountable—an opinion in which, I think, everybody would be inclined to agree. My amendment, I should add, differs from the proposal of the Bengal Government in insisting only on the condition that the labourer should be a resident without defining the period of residence by a hard-and-fast rule.

"I must add that to recognise and to enforce by legislation the necessity for supervision in contracts entered into outside the labour-districts, when, in the words of Sir Dennis Fitzpatrick, the emigrant is still close to his home and within hail of his own people, and to neglect such supervision when he is carried to Assam, to him a foreign country, is, I must say, with the greatest deference, both inconsistent and indefensible. Emigration which is really free may safely be left without fetters, but the emigrant who is assisted to emigrate under present conditions in order that he may enter into a labour-contract cannot properly be described as a free labourer, simply because he is carried to Assam before entering into any engagement.

"It has always been the policy of the State to control the recruitment of such emigrants by law—a policy recognised in the restrictions imposed on the contractors' as well as the sirdari system. It was probably expected when the Act was passed in 1882 that free emigration would take the same form in India as it has in other civilized countries, the employers of labour supplying the place of the emigration societies. But emigration has not unfortunately assumed any such shape notwithstanding the system of Dhubri contracts. It has only served to enrich a lawless body of men termed *arkatis*, to the detriment of legitimate recruiting, and hurtful alike to the employer and labourer. As observed by Mr. Stuart, Chairman of the Indian Tea Association, the *arkatis* have by their malpractices done much harm to the cause of emigration, and, unless their malpractices are effectively checked, will do still greater harm to it.

"I propose to sum up briefly my reasons for inviting the Council to accept my amendment. First, the existence of grave abuses in the system of recruitment by Act I of 1882 is undeniable, and must in the interests of the people concerned be remedied. The control which can be exercised under the ordinary law cannot reach the evil in some of its worst forms, and the amendments proposed by Government cannot be regarded as adequate for the purpose. They may scotch the evil, but they cannot kill it. Secondly, there is no reasonable ground for making a distinction between labourers who contract near their homes and those who are carried to Assam for the purpose of placing them under labour-contracts there. I ought perhaps to say that there are stronger grounds for placing under control the latter class of emigrants. Thirdly, there is no danger of such restrictions as I propose enhancing in the slightest appreciable degree the price of labour or checking the progress of free emigration properly so-called. Indeed, I might venture to assert without much rashness that with the removal of the abuses which have grown up under the Dhubri system the occupation of the *arkati* would be gone,

the price of labour would fall, and in the course of time free immigration properly so-called would take the place of the present system, which has certainly not been a very pronounced success, if, indeed, it has not brought emigration under all forms into not altogether undeserved discredit.

"In conclusion, I must say that there are very few laws in the Indian Statute-book the policy of which has been more keenly debated than the Emigration Act which it is now proposed to amend. It would serve no useful purpose to revive the memory of the controversies which have marked the whole course of legislation on the subject. On one point only we find a remarkable unanimity of opinion, namely, that exceptional legislation of the kind under discussion must be regarded as merely temporary and should not be maintained even a day longer than is absolutely essential for the protection of the classes concerned. While loyally accepting the conclusion arrived at by the Government, after the fullest and most anxious enquiry, that the time is not yet ripe for the repeal of penal contracts, I can only repeat the hope so often expressed that with the improvements in the means of communication between the recruiting and labour-districts, and the increasing knowledge of Assam life by labourers in the recruiting areas, the necessity for special legislation will soon cease and the relations of employers and labourers will be placed on the ordinary basis regulating their mutual rights and obligations. There is only one other observation that I should like to make. Emigration laws have been denounced in very severe terms, not only by some of my countrymen but also by European public servants in responsible positions. But the large mass of official literature which has gathered round the Assam coolie must convince everybody that special legislation is resorted to not merely in the interests of the tea-industry, but also in the interests of the people at large, as tending to promote emigration from those parts of the country in which the wages are low and the people liable to periodical famines. The evils which have crept into the system must not lead us to forget the good that emigration has done. They must not lead us to forget that the districts of the North-Eastern Frontier, once a wilderness, have now been covered with plantations which, while adding to the wealth of the country, support thousands of labourers, and where many of them have found comfortable homes. Then, again, the benefits secured by the Act to the labourer ought to be set off against the penalties by which the performance of his part of the contract is secured. It must also be borne in mind that some of the evils which have revealed themselves in connection with the system are inseparable from all emigrations conducted on a large scale among the

poor and ignorant, and, although I cannot help thinking that local registration would seem to be as nearly complete a remedy as can be devised for the growing evils of unregulated recruitment, I am bound to admit that the Bill now under discussion contains provisions which would to some extent reduce the evils which have sprung up, and that with the more energetic action of the executive, including the strengthening of the inspection system which has been promised by Sir Philip Hutchins, the condition of the labourer in the tea-gardens would be improved in a very large measure."

The Hon'ble SIR PHILIP HUTCHINS said:—"I have already indicated briefly why the Government of India cannot on any account agree to what is called initial registration. I am afraid I must now deal with the matter at considerable length. Reluctant as I am to trespass further on the patience of the Council, I feel that it is of the utmost importance that the views of the Government of India on this vexed question should be clearly understood, and that, if possible, it should now be finally determined. I propose to deal with it first in a general manner, and then with especial reference to Dr. Rashbehary Ghose's amendments.

"Registration, as the Indian Association itself has truly observed, is opposed to free emigration which we wish to promote. The two are incompatible. It is not possible, as Mr. Grimley asserts, that registration will facilitate free recruitment. For let us see what registration means. It means that no one is to be allowed to enter into a contract to labour in Assam without having first in his or her own district, or as near thereto as may be, gone before a Magistrate and registered himself or herself as willing to proceed to Assam for that purpose. On the other hand, free or privately assisted emigration means that the labourers find their own way up to the labour-districts without any official interference, and are then and there put under contract if willing. The registered labourer—by which I mean one registered under the Act or under any system under which registration can practically and equitably be enforced, the case would be different under the present amendment—the labourer registered under the Act, though not actually under contract, is under an obligation to execute one when called upon to do so, and can be fined or imprisoned if he refuses; he has therefore ceased to be free. But the free labourer is under no obligation at all until he has actually executed a contract at Dhubri or elsewhere; till then he is absolutely free.

"The two things being thus, as I have said, incompatible, my first objection to making registration compulsory, or clogging it with a condition which makes

it practically compulsory, is that it will throw back all emigration into leading-strings, and reverse the policy which has been consistently followed by the Government of India ever since 1873.

"For Mr. Grimley and others (I quote Mr. Grimley again as to some extent representing the district officers of the recruiting districts) are quite mistaken in supposing that the free emigration spoken of in 1873 and 1882 meant something essentially different from the privately assisted emigration which now prevails. Take, for instance, the report of the Commissioners upon whose advice Act I of 1882 was framed. This mentions at the outset that the Bengal Government had in 1873 'recognized in some degree the propriety of encouraging free recruiting,' and then proceeds to define free recruitment as 'a system of inducing natives of other parts of India to emigrate, and furnishing them with the means of doing so, carried on by or on behalf of employers without any supervision or control on the part of Government officers.' The Committee advised that this should not only be permitted, as it had been permitted under certain restrictions since 1873, but that those restrictions should be removed, and that free or unregistered recruitment should be encouraged as much as possible by the declaration of the competency of an unregistered recruit to execute a labour-contract after arriving in the labour-districts. So, in addressing the Secretary of State in August, 1886, the Government of India wrote that 'the most important change which the present Act effected was the encouragement of assisted (sometimes called free) emigration by relieving it from legal trammels until the coolies reach the labour-districts.' It was thus clearly recognized in 1882 that, in order to afford to employers a sufficient inducement to incur the outlay of taking up free or unregistered emigrants to the tea-gardens, it was essential that such emigrants should be permitted to enter into local contracts.

"I would here ask the Council to consider the happy results which this policy has produced in the Surma Valley Districts, and the disastrous consequences which would ensue if it were now to be reversed. The system of Act immigration and penal contracts is gradually dying out in the districts of Sylhet and Cachar. It is still necessary, in the interests of the administration, to maintain the Government control which the Act renders possible, but employers are voluntarily giving up the use of the penal provisions which bear against the coolie. This is especially remarkable in Sylhet. There, even in 1886, 64 per cent. of the adult immigrants were taken up free, while of the whole adult labour force only 27·6 per cent. were under Act contracts. In 1891 the percentage of free immigrants had risen to 94, while the percentage of adult labourers under

Act contracts had fallen below 15. The corresponding figures for Cachar are little less remarkable: free immigrants were 26 per cent. of the whole in 1886, and 41 per cent. in 1891: Act labourers had been 30·7 per cent. in 1886, but had fallen as low as 13½ per cent. in 1891. It is clear from these figures that the question whether the Act may not be withdrawn from at least a large part of the Surma Valley will arise very shortly in the natural course of events, and any change in the law which would force employers to make a larger use of its provisions is much to be deprecated. Yet this would be the inevitable result if they are not to be allowed to recruit free emigrants and to exercise their discretion, after the recruits reach the gardens, whether they should be put under contract or not.

"My next objection is that initial registration has been condemned on its own merits.

"The point has been argued as if the only objection to compulsory registration was the trifling fee which it involves, but if I have ever spoken of its expensive character it was certainly not any such legitimate charges which I had in mind.

"It is not at all true that registration was dispensed with in order to cheapen the supply of labour. 'Its main evil'—His Honour Sir Charles Elliott once wrote, and he was only summing up in his graphic style what the records show—'Its main evil was the great delay and annoyance experienced by the recruits, the difficulty of getting anyone in the Collector's cutcherry to attend to the business, the necessity of bribing every one all round, and the danger either that the whole registration was done so perfunctorily that it was no safeguard whatever, or else that it would be done by some one who was fanatically persuaded that no Hindu could possibly emigrate except under fraudulent enticement or compulsion.'

"The same question came up again in 1883, in connection with recruiting for the Colonies. A lengthy enquiry was made by Colonel Pitcher in the North-Western Provinces and by Mr. Grierson in Bengal. I find Mr. Grierson writing as follows:—

'The present system of registration is just about as bad as it can be, and so also is the way in which this system is carried out. . . . . The divergencies of practice from the authorized system have all arisen from one cause: the wrong man has been made to do the work. A Magistrate's business is not to keep complex registers but to look after the general welfare of the people. . . .' Registration is an art in itself. It requires years of training to teach an officer to do the work. . . .

The registration of the coolie's contract, if properly carried out, requires just as much care and experience as the registration of the deed of sale of a whole estate.

"At Dhubri, I may mention, the work is really carried out as an art, under an experienced medical commissioned officer and a Deputy Commissioner who regards it as one of his chief functions. They are experts in the business, and this is why we consider registration at Dhubri so much more effective a safeguard against fraudulent or irregular recruitment than registration in the recruiting districts. The security against false personation, and changing of coolies after registration and other similar malpractices, is much greater at Dhubri than in the recruiting districts; for the emigrants are under official supervision from the moment they reach that station; and shortly after the execution of their contracts they are placed on the steamer in the presence of the Deputy Commissioner or a medical officer. Each batch of emigrants are identified with their way-bills at the time of embarkation and are then placed in charge of the master and medical officer of the steamer.

"Three results were clearly elicited by Mr. Grierson's enquiries:—

(1) That there was a general hostility on the part of officials to the recruiter, who was frequently impeded in most objectionable ways by the police and underlings of the cutcherris.

(2) That the magisterial officers have not sufficient time to attend properly to registration business; and, if they had not time then to attend to the few Colonial emigrants, how could they possibly hope to cope with the thousands now proceeding to Assam? In 1891, nearly 25,000 emigrants went up from Bengal to Assam.

(3) That the verification before the Magistrate was by no means a sure preventive of malpractices.

"And this brings me to the subject of malpractices, which, so far as I can understand, form the main, if not the only, ground on which a return to initial registration is demanded. It is remarkable that the allegation of abuses is always made with regard to Dhubri: we hardly ever hear of them in connection with the Surma Valley, where the number of free emigrants going right up to the gardens, without any official control except for sanitary purposes, is so large. The number of complaints, however, was certainly at one time startling, and there was no doubt that many of the best district officers had taken up the position that free recruiting gave rise to all sorts of abuses. This led me in 1889 to make a very careful analysis of the various charges, so far as particulars

were given, and the first conclusion to which I came was that, in their laudable anxiety to protect the people entrusted to their care, many excellent officers had imbibed an unconscious prejudice against free recruitment. I have since found that this is no new discovery, but has all along been recognised. For instance, in 1886, the then Lieutenant-Governor of Bengal, Sir Rivers Thompson, wrote as follows:—

'In reporting upon cases of this kind there can be little doubt that the judgment of most district officers is likely to be warped by a not unnatural prejudice against free emigration. Formerly, they controlled every step of the emigrants' movements; now they know nothing about them, except through complaints of abuses which only come to their knowledge after the emigrants have left their jurisdiction. Again, the people of the recruiting districts, particularly those classes of landlords whose opinion is likely to influence the district officers, are violently opposed to any form of emigration, on the ground that it takes away from the district large numbers of the landless classes, and thus tends to raise the wages of agricultural labourers.'

"My second conclusion may also be summed up in the words of the same distinguished Head of the Bengal Government, who wrote in the letter from which I have already quoted:—

'The Lieutenant-Governor is unable to find in them (the cases reported) any special form of abuse which can be definitely put down to the system of free emigration as distinguished from the protected emigration under the Act of 1873. The abuses, such as they are, are of the same kind.'

"I found also that the low ratio of convictions indicated that many of the complaints were frivolous or unfounded, that the figures included many cases in which the coolie was the accused and not the accuser, that all cases connected with emigration had been mixed up together, including assaults and even charges for absconding with advances after registration. Indeed, it seemed as if every case of a disappearance were at once attributed to the machinations of Assam *arkatis*, just as suspicious deaths used to be put down to snake-bite! Many of the malpractices which I found graphically described as the work of an *arkati* or free recruiter actually implied that the victim must have been registered; and yet the remedy suggested was more registration.

"As an instance of the inefficacy of registration in checking malpractices and preventing unsuitable coolies from being sent up, I may refer to the Rowta case reported in the Bengal Government's letter of 25th February, 1893, which was submitted to the Select Committee. Sixty-two coolies were sent up after registration in Calcutta, and after executing contracts under the Act, to the

Rowta garden.. They were described in their contracts as Ghasi by caste, and as coming from the Sonthal Parganas, a district from which good recruits are ordinarily obtained. Seven months later only 16 were left on the garden; 26 had deserted, 16 had died, the contracts of 6 were cancelled for permanent physical incapacity; the remainder were a sickly and feeble set. It was found when they reached the garden that they were not Sonthals at all, but coolies from the North-West Provinces of a low and sickly type. Their castes and addresses had been misstated. Altogether the case was a most distressing one. I had carefully gone into it before the Select Committee sat, and the conclusion I came to was that the coolies had been personated at the time of registration, or that they had been changed before despatch to the labour-districts. At all events, more registration would not have prevented the occurrence: the men had not only been registered, but had actually been put under engagement in Bengal. The fault lay entirely with the Calcutta agents, who had been invited by the contractors to inspect the men, but had neglected to do so. As I explained on a former occasion, we can only reach the agents through the gardens. The Bill on the table will give very stringent control over the gardens, and has been framed on the principle that they are responsible. The owner of the Rowta garden should, I think, change his agents, and no other planters should employ a firm which has been guilty of such gross and culpable negligence.

"Now, what are the malpractices to which we are most anxious to put a stop? When I introduced this Bill I endeavoured to show that most of the abuses in recruitment complained of could be, and had been, suppressed by vigorous executive action under the ordinary law. I mentioned that in 1891 there were only 13 complaints made *by* coolies throughout the Bhagalpur and Chota Nagpore Divisions. The only cases calling for anything like special measures of repression were, I said, cases in which the labourer, though under the influence of enticement or misrepresentation, is nevertheless a willing emigrant at the time he would be brought up for registration. For such cases obviously registration is no remedy at all. Even if it were possible to secure that every emigrant should be registered within his own district, there would still be nothing to prevent his giving a false name and address, and nothing to prevent personation. I submit that it is impossible now for man or woman to be taken all the way to Dhubri against their own will. The fact seems to be that, speaking generally, a recruiter does not go through the trouble and expense of registration where he believes the coolie will go with him willingly, in which case registration would be superfluous: but, where the coolie has been in any way deceived, the recruiter would naturally seek to establish a

hold on him by means of registration, and in this class of cases registration would be positively mischievous.

"These remarks also apply in some measure to cases in which there has been a disruption of family ties. I cannot regard it as an unmixed evil that an ill-used member of a family should have some means of escape, and if he or she, being 16 years old, is determined to emigrate, I do not see why it should be in the power of a Registering-officer to say no. But, as a matter of fact, it would be easy to take a person before an officer, known to be perfunctory or over-worked, and get him or her registered; and then there is no room for a change of mind. Theoretically, registration can only be effected in the district for which a recruiter may be licensed; but he would have no difficulty in passing on his willing recruits to the next district, or in registering them under false names or as coming from villages not really their own. It would be impossible to keep back every case in which the emigrant was not known until enquiry could be made. It would be equally impossible to prevent a runaway from presenting himself for registration at Calcutta, as having come down to obtain work in a mill or the like and been recruited here.

"I have already referred to the Chhattisgarh cases and shown that they do not in any way controvert the position that such abuses as do exist are best met by vigilance on the part of the executive officers—in the recruiting districts, on the road to Assam and especially at the halting-places fixed under the Bengal Act of 1889, and lastly at Dhubri itself or elsewhere in the labour-districts. At Dhubri special precautions have always been taken with regard to women travelling alone and young persons. And under the present Bill the contract of a person found to have been improperly recruited can be cancelled at any time, however formally executed.

"It has been suggested, and if I rightly understood my hon'ble friend who moved the amendment he would support the suggestion, that we should make inducement to emigrate by misrepresentation and intimidation punishable under the criminal law; but I am decidedly opposed to the manufacture of technical offences. The Penal Code says what misrepresentations or intimidation can properly be treated as offences, and any one who comes under its provisions will doubtless be severely dealt with. It is undoubtedly an offence already to confine or restrain an unregistered coolie against his own will. Misrepresentation or intimidation is very commonly falsely alleged by the coolies to cover and excuse their own change of mind. The conditions of life in Assam are now well known throughout the recruiting districts, and emi-

grants proceeding there fall into a stream of companions where little else is talked about. It is hardly possible that the effect of misrepresentations can be maintained all the way to Dhubri, but of this the recruiter takes the risk. I regard with some suspicion the graphic pictures of *arkatis* worming themselves into families and taking advantage of disputes between husband and wife, but no doubt they are ready enough to assist people who have already quarrelled with their families and wish to get away; but here they have to risk the very probable contingency that before the recruit reaches Dhubri he may change his mind and have to be repatriated at the recruiter's cost. This is in itself a serious punishment, and I would not add any other. As for the recruit himself, it is surely better for him to have time to cool down during his journey, instead of being hurried fresh from his quarrel into the presence of a Registering-officer and there finally committing himself. Under the provisions of the present Bill, there will be no doubt about his right to repatriation.

"I venture to think that emigration to Assam may be compared to that which goes on from the south of India to Ceylon and to the Straits Settlements. When I first came out to India complaints of malpractices on the part of the recruiters—*kanganis* we called them there—in connection with emigration to Ceylon were very common. But they gradually died away and registration became obsolete. Even to this day, or at all events till very recently, the law of Ceylon recognized penal contracts, and yet there is a constant flow of perfectly free emigrants into the island. As communications improve Assam may be reasonably expected to come under the same conditions. So again in the Straits Settlements the law provides for penal contracts, but if there is anything at all resembling registration in India, it is of the simplest possible character and confined to the port of embarkation.

"I will now deal with the particular amendment which has been proposed by my hon'ble and learned friend Dr. Rashbehary Ghose. Unfortunately he did not attempt to formulate it when the Bill was in Select Committee, and I have only been able to glean his intentions from the notice of the amendments, which reached me late last evening, and from what he has just orally stated. It seemed to me that his explanation of the real scope and effect of his proposals was of a very meagre character indeed.

"It is proposed, as I understand, (1) that any unlicensed recruiter—that is, any person recruiting otherwise than under Chapters III and IV of the Act—may register his recruits before the Registering-officer of the area in which the intend-

ing emigrant 'resides'; and (2) that no person, other than a 'resident' of the labour-districts, shall be eligible to enter into a local contract under section 112 of the Act unless he has been so registered.

"It seems to me that the Hon'ble Member must have moved these amendments rather for the purpose of raising the general question than with any intention, even if the Council should decide in his favour, that his amendments should be adopted as establishing a final and practicable scheme of initial registration. The words 'reside' and 'residence' are singularly vague. I presume that it is not intended that any person who has resided a few days or months in a recruiting area or a labour-district shall be eligible to be registered or to enter into a contract. The Hon'ble Member said that he had purposely abstained from laying down any hard-and-fast rule, but I submit that we must have something definite and capable of being understood.

"It seems to be considered by the Hon'ble Member—and I have seen the same statement made in certain newspapers—that the proposal we are now considering will not discourage free (unregistered) emigration, or impede the growth of free (non-contract) labour, because it will still be open to the employer to engage free or unregistered recruits and to bring them up to his estate and employ them as free labourers. Only he will have to finally exercise this option, not, as at present, after the recruits have reached the labour-district, but before they leave the recruiting districts.

"I venture to assert that the whole course of experience is against this contention. The argument is not a new one. As far as I was able to follow my hon'ble friend, he has done little more than reiterate the case which was put forward by the Bengal Government in 1890. This was fully considered by the Government of India, and in our published Despatch of 5th October, 1891, reasons were given at length to show that the proposals submitted would in fact throw back the progress which is now gradually being made towards free emigration and free labour, and delay the time when the Act could safely be abandoned. The part of the Despatch to which I refer is paragraphs 15 to 26 and covers eight pages. It is too long to quote. I will therefore merely give the substance of it as briefly as possible considering the intricate nature of the subject.

"Taking first the Surma Valley, the experience hitherto gained has shown that registered emigration necessarily carries with it a general system of Act-labour. As registered emigration developes into privately assisted emigration,

this general system of Act-contracts passes into an intermediate stage, such contracts becoming less common and being superseded by less stringent forms of contracts. Act XIII of 1859 furnishes this intermediate stage of contracts in the Surma Valley. As privately assisted emigration passes into unassisted, that is, unsolicited and spontaneous emigration, there follows a system of entirely free labour without any contracts at all. There are many gardens in the Surma Valley where this final stage of free labour has been reached. But experience has shown that emigration must pass through its various stages to the final stage of unassisted emigration before the stage of entirely free labour becomes generally practicable. If we now throw back the privately assisted sirdari emigration, which has become the regular practice in the Surma Valley, to the stage of registered emigration, we shall also throw back the intermediate stage of contracts to the stage of strictly Act-contracts.

"For various reasons, which were fully stated in the Despatch to which I have referred, the development has not gone so far in the Assam Valley as in the Surma Valley; but the first stage in the development has been reached in the establishment of privately assisted emigration with Act-contracts at Dhubri. Now, as was recognized by the Commission which prepared the first draft of Act I of 1882, the chief inducement which employers have to bring up a free or unregistered emigrant is that they are competent to execute an Act-contract with them after their arrival on the garden; and their chief reason for resorting to free emigration is to avoid initial registration. It is entirely contrary to experience to suppose that, under the conditions which these amendments would bring about, employers will on any large scale avail themselves of the option of both bringing up their recruits as free or unregistered emigrants and employing them as free labourers—that is, without any form of penal contract. The sole reason why employers now resort to unregistered emigration is because, by doing this, they avoid the trouble, vexations and delay, and the irregular exactions and opposition from subordinate officials, which surround registered emigration; while, on the other hand, they have still, in suitable cases, the security of the contract system, and can, if necessary, place the recruits on Act-contracts on their arrival in the labour-districts. When the coolies arrive on a garden in the Surma Valley, if they are steady and well-behaved (and especially if they come in families) and are not likely to desert or give trouble, the employer often does not care to place them under Act-contracts. If, however, they seem to require the stricter discipline of the Act, they are placed under Act-contracts. But under the proposal now before us the employer will have to decide whether or not he will place the recruits under Act-contracts before they leave

the recruiting district, and this practically means that he must decide at the time when he sends his sirdar down to recruit. Not knowing the kind of coolies that will be brought up—whether they will be well-behaved or likely to give trouble, and whether they will come in families or as solitary individuals—he will not be able, as a general rule, to take the risk of deciding to employ them without Act-contracts, and will therefore ordinarily have to give general instructions for registration. And, if he goes to this much trouble and expense—just what he wishes to avoid when he recruits outside the Act—he will, in most cases, at once give his sirdar a certificate, and thus get a legal hold over the recruiter and the recruits at the outset by having contracts executed in the recruiting district. For it must be remembered that under these amendments, if I understand them rightly, although the omission to register in the area of residence involves a disability to make a local contract, the registration observed creates no obligation. The registered emigrant may decline to proceed to the labour-district or to execute a contract, and he will not be punishable for this, except in certain cases to which perhaps the Penal Code may apply. The consequence will be that employers, instead of undertaking privately assisted recruiting, will go back to Act-recruiting.

"These remarks apply particularly to the Surma Valley. In the Assam Valley, where only an intermediate stage between registered emigration and privately assisted emigration has been reached, there will *à fortiori* be a similar retrogression, and further progress towards free emigration will be checked.

"I must apologise for having troubled the Council at such length on this point, but it seemed to me important to show clearly that the proposal is in fact likely to throw back the emigration and labour system.

"The Hon'ble Member has referred to a proposal made by the late Mr. Quinton for restoring the Goalpara District to the status of a recruiting district which it occupied before 1882, and for restricting contracts there to recruits originally registered in the actual area of their recruitment. Our objections to this proposal also have been fully stated in our published letter of the 5th October, 1891, to the Chief Commissioner of Assam. But I would point out that Mr. Quinton's proposal is an entirely different one from that now before us, as it involved no interference with the execution of Act-contracts on a tea-garden. It merely made Goalpara a recruiting district, but still allowed unregistered emigrants to execute local contracts under sections 111 and 112. Besides, as we pointed out, Mr. Quinton was not personally in favour of this proposal; he merely suggested it as a substitute for initial registration in case the Government of India should determine to abolish the present

Dhubri system. We have, however, decided to maintain that system. Later on, when I visited Assam at the end of 1891, I found that the planters as a body were strongly opposed to any interference with the existing arrangements at Dhubri; they entirely approved of the conclusion at which the Government of India had arrived independently. They had then had full time to understand Mr. Quinton's alternative scheme, the effect of which they may not have fully understood when it was first put before them.

"Again, the main object of Mr. Quinton's proposal was to compel unlicensed contractors and *arkatis* to take out licenses and thus to get them under proper control. The present proposal, so far as I can see, does not profess to do anything to bring these people under control, and it appears to be hoped that some accident or other will bring about this result.

"To return to the amendments—I would ask if the proposal to restrict registration to the area of the recruit's residence is at all fair or reasonably practicable? I have already said something upon this topic. The Act now contemplates that a recruit shall be registered in the actual area of recruitment. Yet we know that this is not, and cannot always be, done. It is hardly possible for a Registering-officer, without great delay in making inquiries, to decide whether an intending emigrant actually resides in his district or sub-division. The largest number of labourers recruited under the Act are now registered in Calcutta, but they do not live there, and many of them are doubtless brought there for the purpose by *arkatis* and others. It would be a direct discouragement to emigration if we absolutely forbid the registration of such persons and thus declare them incompetent to enter into Act-contracts. A coolie from the North-Western Provinces or from Madras might spontaneously come to Calcutta—or say that he had so come—and offer himself for registration; I submit it would be unreasonable to refuse to register him.

"But, even if all this could be overcome, what provision does the amendment make to ensure that the work of registration shall be properly done? That there shall be no delay or vexatious obstruction to the recruiter? That recruits shall actually be registered in the area of their residence? That false names and addresses and misdescriptions will not be given? That false personation will not be resorted to, and that coolies will not be changed after registration? These are not mere captious objections. I have had to refer to them before. Repeated and exhaustive enquiries, and even the reports of officers who are in favour of initial registration, show that these evils are practically inseparable from any system of registration.

"The difficulty of distinguishing 'resident' and 'non-resident' emigrants in the labour-districts arises from the fact that there is not only a large and annually increasing domiciled immigrant population in the Province, largely composed of persons of unsettled and migratory habits moving about from district to district, but in addition to them there are new emigrants going up every year in large numbers whose history it would be difficult to trace. There are also old emigrants going backwards and forwards between their homes and the Assam gardens. The difficulty will naturally be increased when railway communication is established and has led to more rapid traffic between Assam and other Provinces. It is for those who propose the restriction of local contracts to residents of the labour-districts to show what is meant by the term 'resident,' and what steps should be taken to prevent unregistered non-residents from evading disability to contracts imposed on them. The amendments proposed seem to leave this to accident. It must be remembered, too, that under these amendments licensed recruiting will not be required; any unlicensed recruiter will be able to produce a recruit before a Registering-officer.

"All these matters must be foreseen and provided against in a manner which is not detrimental to emigration. Unless such special provision is made, the scheme will certainly be retrograde, dilatory, vexatious and expensive; but I venture to submit that it will not be effectual in attaining its object, which I understand to be the prevention of abuses. We cannot embark upon novel legislation merely in the hope that it will reform the system, and leave it to accident to bring about the desired result.

"It must be remembered that the proposal would entirely disturb the existing course of emigration throughout Assam. Nearly all emigrants to the Assam Valley execute contracts at Dhubri without previous registration; nearly all emigrants to the Surma Valley go up to the gardens as free labourers, and a large number of them enter into local contracts.

"We cannot deal with this question with exclusive reference to Bengal—we have also to consider the effect of the proposal on other Provinces. I will first take Assam. I see at once three awkward results. In the first place, residents of districts other than the labour-districts will be incompetent to enter into a labour-contract. I understand that Garos, Nagas, Khasis and other hillmen work on the tea-gardens. Secondly, suppose that unregistered emigrants were taken up on a large scale and did not enter into local contracts under the Act; they would still almost certainly be placed on some other kind of penal contract enforceable under section 492 of the Penal Code or Act XIII of 1859,

with the result that during their first few years in Assam, and until they had become 'residents,'—that is to say, at the very time when they most need it,—they would be deprived of the sanitary and other protection afforded by Government to Act-labourers. Thirdly, how are we to distinguish between 'residents' and 'non-residents' of labour-districts? At what period after his arrival in a labour-district would an emigrant become a 'resident'? How could the Magistrate or Inspector, or even the employer, say whether any particular coolie was a resident or a non-resident? If he chose to represent himself as a resident, could he afterwards turn round and get his contract cancelled by proving that he had made a false statement? What steps would be taken to prevent unregistered emigrants being placed under contracts as residents?

"Let us next take the case of the North-Western Provinces and Oudh. In 1891 more than 10,000 emigrants went from these provinces to Assam. Seven thousand of them went as free labourers. An exeellent system of family emigration has been established between these provinces and the Surma Valley gardens, and no abuses in recruitment are complained of in connection with it. The Hon'ble Mr. Woodburn has just informed us that his province is perfectly satisfied with the present state of things. These amendments would check, if they did not wholly stop, this most desirable description of free emigration, and the effect of the proposal would be the same in every other recruiting province. No free emigrant could enter into a local contract, and no opening would be left for the growth of the free emigration system.

"I submit then, again, as I did before, that, with or without initial registration, abuses in the recruiting system cannot be kept in check without vigorous and sustained executive precautions, while with such precautions initial registration is unnecessary. I have shown that such abuses have already been reduced within very narrow limits in Bengal by executive action, and that, as a supplement to executive action, we now have the Bengal Act, I of 1889, which authorizes the Local Government to frame rules for the transit of unregistered emigrants. The proper remedy, I venture to think, if anything more is necessary, is to amend these rules, or, if legislative action is really required, to amend the Bengal Act itself. That Act, or some similar enactment, might also be applied to any other recruiting province in which it may be required. It will thus be possible to take whatever measures are required in any particular province to check abuses without interfering with free emigration.

"I submit, then, in the first place, that abuses in recruitment are not now so serious or prevalent as to call for this retrograde step which is now proposed;

secondly, that initial registration in any form, but particularly in the form proposed in the amendments before the Council, is not a proper remedy for such abuses; and, thirdly, that there are other and better available remedies, if any are wanted.

"For all these reasons I confidently ask the Council to accept the considered policy of the Government of India in this respect and their decision not to revert to the antiquated system of initial registration."

The Hon'ble MR. BUCKINGHAM said:—"The Hon'ble Dr. Rashbehary Ghose has introduced my name as favouring initial registration, and in answer I may state that Mr. Grimley does refer to certain remarks written by me last year, and states that I supported his views with regard to initial registration. My remarks were enclosed with Mr. Ward's letter of the 12th August, 1892. What I said was that I should like to see the recruiting of all professional contractors and recruiters resident in Bengal brought under official control. But I strongly object to enforcing initial registration or imposing other restrictions, in the case of unlicensed garden-sirdars or coolies or other persons sent down from the Assam tea-gardens for the purpose of recruiting outside the Act.

"I also feel sure that all employers in the Assam Valley will strongly object to any change in the law which will prevent unregistered emigrants from entering into labour-contracts at Dhubri as at present, and I have not the slightest doubt that employers in the Surma Valley will be equally opposed to the prohibition of local contracts in the labour-districts in the case of unregistered emigrants. Other grave objections to initial registration are unnecessary delay, and various expenses in bringing the coolie into Court; again, the strong inducement that would be placed before sirdars and coolies to accept bribes and engage elsewhere; in fact, every registry office will become a recruiting centre, where there would always be people waiting ready to waylay and entice away labourers recruited by others; lastly, the certainty that free emigration, pure and simple, which has made such rapid strides in the Surma Valley, would receive a death-blow."

The Hon'ble MR. STEVENS said:—"I desire to explain that, though I sympathize heartily with the object of the Hon'ble Mover of the amendments, I am not inclined to vote for them as they stand. The literature of this subject shews that purely free emigration to the nearer districts is growing and has already attained

considerable dimensions; and this most satisfactory form of emigration would be, I think, discouraged, if not suppressed altogether, if registration in the districts of original residence were insisted on in the case of persons adopting it. I would interfere no more than I would with emigration to the Duars. I have studied the papers to the best of my ability, and have listened to the remarks of Sir Philip Hutchins with the attention they deserve. As I do not propose to vote for the amendments, I will not take up the time of the Council by discussing them in detail. I will merely say that I have not been able to discern that the objections to initial registration, as it used to be conducted, were incapable of remedy, and, whatever defects Mr. Grierson found in the registration of emigrants to the Colonies, as it was conducted, I have not heard that registration for the Colonies has as a consequence been deferred till the arrival of the emigrants in the Colonies themselves, or even till they are put on boardship. And, as a matter of fact, registration is now required under Act I of 1882 in the case of coolies recruited by licensed recruiters, and even in the case of coolies recruited by garden-sirdars, under a system which is universally considered comparatively healthy. What is the object of this registration, and why does it remain in the Act at all? What I desire is to require initial registration in the case of contractors' coolies recruited outside the Act; for it is these who appear to me to require special protection. I confess that to devise a practical method of carrying out such registration requires more consideration than I have been able to give the subject, and I am not ready to offer to the Council a matured scheme. But I am so convinced that it is desirable in the interest of the labourers that the present Bill should be passed that I should be sorry to see its enactment postponed even for this important question."

The Hon'ble Mr. FAZULBHAI VISHRAM said:—"I have no desire to offer any lengthy remarks on this Bill; in fact, I shall be very brief considering the hour and what has already been said, especially because I consider that, on the whole, it is framed in a very fair spirit and with due regard to the interests both of the planter and the labourer. Almost everything that is necessary for the protection and well-being of the coolie has been provided for, and he is likely to be better off abroad than he can be at home. I have no particular experience of the labourers who go to Assam, but I do know a little about those who proceed to the Mauritius, and they generally profit by migrating from India. To a certain extent the Muhammadan pilgrims who yearly proceed from India to Arabia are cared for in a similar manner whilst travelling on board a steamer. Of this I can speak from personal experience, as our steamers often take pilgrims

from Calcutta and Bombay to Jeddah, and we have under the Pilgrims Act to provide for them doctors, hospitals, medicines, disinfectants, tea, sugar, and many other comforts to which ordinarily they are strangers. The Hon'ble Mr. Mackay must know more about it than I do. The Emigration Act seems to have been conceived in the same liberal spirit as the Pilgrims Act, and very properly so; but there is one point about it which I thought was lost sight of, and that is the initial registration in the district where coolies are recruited. I may add that I had the advantage of conferring with certain gentlemen who are more or less authorities from the points of view of planters as well as labourers, and I have now come to the conclusion that the absence of a system of initial registration is likely to lead, and *does* lead, to malpractices on the part of recruiters. I need not now go into details about them. They are borne out by some of the planters themselves, and it is but right that some check should be provided against them. I intended, therefore, to submit this morning certain amendments with this view, and may still do so if Dr. Ghose's amendments (which reached me last night) do not meet the case.

"I was thinking of moving for a provision for the initial registration in sections 30, 31 and 32 of the Act, which really bear on the question of registration *within the local area for which the recruiter is licensed*, and in my humble opinion it would be more convenient to alter this to *the area to which the labourer belongs* than to insert the new section 7A and sub-sections proposed by Dr. Ghose.

"I should also like to have seen a provision made in the Bill for the appointment of a Protector of Emigrants, the same as there is for a Protector of Pilgrims under the Pilgrims Act, but I am now not prepared to propose anything under this head.

"On second thought, and after what has fallen from the Hon'ble Sir Philip Hutchins as regards the amendments in their present form, on further consideration I think I had, perhaps, better propose the amendments indicated by me, if I may be permitted to do so. I know the rules require three days' notice, but it must be borne in mind that I received the Bill and the Select Committee's report officially on Monday last, and by the time I could go through them it was Wednesday, that is, yesterday. Hence there was no time to send in any formal amendments beforehand."

The Hon'ble SIR PHILIP HUTCHINS said:—"I ask Your Excellency's permission to make just one remark on what has fallen from the Hon'ble

Mr. Stevens. He said that he was not aware that colonial registration has been given up. That is quite true, but the reason is that it is absolutely essential for emigrants proceeding to a foreign country. Dhubri and the rest of Assam, including all the labour-districts with the local contracts executed therein, are under our own laws and the administration of our own officers; all that we require is that somewhere or other officers whom we can trust shall ascertain that the labourers know the nature of their engagements and enter into them voluntarily."

His Honour THE LIEUTENANT-GOVERNOR said:—"I am unwilling to say much upon a subject which has been discussed so long, and especially after the very full and closely-argued speech of my hon'ble friend Sir Philip Hutchins, in whose statement of the case I wish to express my entire concurrence; but I have been so much identified with this question of initial registration, and I may even say that the Government of India has laid so much weight on my opposition to it in their Despatch to the Secretary of State, that I do not think it would be right for me to give a silent vote on the subject.

"It seemed to me that in the speech of the Hon'ble Mover of the amendment there was a singular hiatus between the major and the minor of his premises. His argument seemed to be that there were great and serious defects in the mode of conducting emigration and in regard to the offences of kidnapping and enticement; but in order to cure these defects and stop to these offences his only proposal was to introduce this system of initial registration, which, as I have shewn to the best of my ability elsewhere, and as has been shewn to-day in the clear exposition of the matter given by Sir Philip Hutchins, will not provide the required remedy. And then, while calling this registration permissive, he proceeds, further on, to make it compulsory, by providing a penal clause the effect of which would be to the last degree disastrous to the condition of labourers throughout Assam by abolishing the possibility of their executing local contracts unless they are sent up under registration from the country of recruitment.

"The evils connected with enticement and kidnapping are grave in themselves, and were at one time very serious in Bengal; but Sir Steuart Bayley took active steps to put them down by appointing special officers and by strong administative measures, and I have lately been able to report to the Government of India that to a very large extent these evils have been put a stop to. That they ever will be entirely put a stop to no one, I think, can expect; all we can do is to give

every facility to those who desire to stop them. The Government of India, in their letter to the Government of Bengal, took this view when they wrote:—

'As the letter of the Bengal Government had only suggested remedies which were judged to be inexpedient and likely to prove inefficacious, ... His Excellency in Council was compelled to throw on Sir Charles Elliott the entire burden of devising appropriate measures.'

"This was in the Despatch of May, 1892. I have not been neglectful of this burden and have since that time been largely occupied in the effort to devise the measures which Your Excellency's Government directed me to consider, and I have lately submitted to the Government of India in the Home Department a set of rules which will, if approved and carried out, effect to a very large extent the exact result which the Hon'ble Mover desires to effect. They will to a certain extent be within the law, and to a certain extent without the law. To some extent they are supported by the Bengal Act, I of 1889, and to some extent they are instructions to executive officers, and I believe that they can be satisfactorily carried out. If not, we shall take measures to provide full legislative power, but I believe that the existing legislative power is sufficient. If these rules are approved, we propose to keep a record of every person who passes through the free depôts, and so shall be able to effect the end of tracing those who leave their homes, which is the main object, I think, of my hon'ble friend's amendment. There will still remain the danger of personation, which cannot possibly be effectually dealt with by any legal or executive system of registration. But the other evils and offences can be put down by active and constant supervision and by the readiness of the persons who suffer from these offences to complain and to get their wrongs righted. Barring that one difficulty of personation, I believe we shall have effected what is necessary and sufficient to trace the free emigrants, to be able to ascertain their destination when their relatives wish to get them back, so that they can follow them up and either catch them on the road or redeem them if they choose to do so from the effects of the contract. I believe that these rules will be a real remedy, and that the amendment of which my hon'ble friend has given notice not only is not required in itself, but would be altogether ineffectual in putting down the abuses complained of."

The amendment was put and negatived.

The following amendment by the Hon'ble DR. RASHBEHARY GHOSE was then withdrawn:—

That after the new section 112A, proposed to be added to the Act by

section 12 of the Bill, the following section shall be inserted, the present section 112B being renumbered 112C :—

"112B. Nothing in section 111 or in section 112 shall be deemed to authorise any employer to enter into a labour-contract with any native of India who is not resident in a labour-district or who has not been registered under section 7A."

The Hon'ble MR. BUCKINGHAM moved that section 5 of the Bill as amended by the Select Committee be omitted. Also that in the new section proposed to be substituted for section 112 of the said Act by the same section of the Bill, for the words "Notwithstanding the provisions of section 111, any employer may enter into a labour-contract with any native of India in a labour-district for any term not exceeding four years commencing from the date of the execution of the contract if he appears," the words "Any employer desirous of entering into a labour-contract with any native of India in a labour-district may, instead of executing such contract under section 111, appear" be substituted. He said:—"With Your Excellency's permission I will take together these two amendments which stand in my name, as they relate practically to the same point, namely, whether the maximum term of the labourer's contract should be allowed to stand at five years, as at present, or should be reduced to four years.

"The Hon'ble Member in charge of the Bill has already explained to what an extent the condition of tea-estates has been enquired into of late years. The Government of India have acknowledged, in published documents, the efforts made and expenditure incurred by persons interested in the tea-industry; in promoting emigration to Assam; the benefits caused thereby both to Assam and to the provinces from which the emigrants come; the generally satisfactory condition of the tea-labourers; and the creditable manner in which the labour-system has worked with rare exceptions so far as planters are concerned.

"But in spite of these admittedly favourable results it is now proposed to reduce the period of contract to four years; to prohibit contracts for periods exceeding one year without the intervention of a public officer; to extend inspection to natives of the actual labour-district; to render more stringent, as against the employer, the provisions of the Act which enable the Government to close gardens to Act-labour; to make the employer liable for the cost of repatriating persons wrongfully recruited, even though he may personally have been in no way concerned with their recruitment; and to add to and strengthen the powers of control which the executive authorities exercise over the employer.

"But, although the present Bill is in these respects one-sided (the one or two points on which it amends the law in a direction favourable to the employer being

of minor importance), I am prepared to accept it generally. I am willing to agree to any powers being taken by Government which are considered necessary, or even desirable, for the protection of labourers and emigrants. I therefore accept the main lines of the Bill, but I feel bound to take strong exception to the provisions of the Bill which reduce the period of the contract (under whatever section it is entered into) below five years. The changes on this point are likely to prove detrimental to the working of the labour-system, and, as far as I can make out, it has not been shown that there is any necessity for them or that they are likely to effect any useful practical result.

"The grounds on which the maximum contract period was raised from three to five years in 1882 are thus stated in the Report* of the Commission, which revised Act VII (B.C.) of 1873:—

'We have raised the maximum limit of time to five years, and provided for payment in accordance with the system of task work universal in the labour-districts. It has been thought essential to provide for a minimum rate of wages for a fully completed task, and for a higher minimum in the fourth and fifth years of service, to which it is proposed that the contract term may now be extended. These changes have been made in accordance with the almost unanimous demand of those interested in the tea-industry, and concurred in by both the Chief Commissioner of Assam' (Sir Steuart Bayley) 'and the Lieutenant-Governor of Bengal' (Sir Ashley Eden). 'The argument in favour of the extension of the term is that it is only thus that the employer can be fairly recouped his preliminary outlay and risk in importing the labourer and maintaining him while he gets acclimatized and learns his work.'

"To develop this argument further I may explain that there are two distinct sets of reasons which make a five-year contract necessary to save the employer from loss.

"In the first place, for about the first two years or so of their residence in the labour-districts the coolies are not really useful. They are getting acclimatized and learning their work. Large expenditure has to be incurred on their health and well-being and on medical and hospital arrangements for them. It is only during the latter half of their five-year contract that they become thoroughly acclimatized and efficient as workers. I will quote an extract from paragraph 9 of the Chief Commissioner of Assam's letter of 12th August, 1892, regarding the contractors' coolies so largely imported into the Assam Valley. Mr. Ward writes—

'In their first year after arrival on the garden they do little or no work; in the second year they are capable, perhaps, of performing, on the average, half the work of an acclimatized coolie; in the third year they have settled down and do full work.'

* Paragraph 106, Assam Special Report.

"It follows from this that in the first year the employer recovers little or nothing of his outlay from the value of the work done by the coolie; in the second year he recovers a little, but nothing like the proportion of the outlay which the one year bears to the whole period of the contract. It is to the third and subsequent years that he must look for recouping himself the expenditure and risks incurred.

"Secondly, a short period of original contract unsettles the coolies and gives opportunities for their enticement away to other gardens. There are many employers and others who do not go to the expense of importing labourers from the recruiting districts into Assam, but are ready to draw away labourers imported by other employers (often by the offer of larger bonuses than are ordinarily given, but which they can afford to pay as they do not incur any expense in importing labour). The Hon'ble Mr. Chentsal Rao, in his minute of dissent attached to the Select Committee's Report, writes that 'if the coolies receive fair treatment, there is nothing to prevent the renewal of their contracts, and good employers have nothing to fear even if the maximum duration be reduced to two years.' It is true that with a three-years' contract good employers have not much to fear from good coolies, and we do not object if the coolies go away after performing their three-years' contract for the purpose of returning to their homes or settling down to cultivation or trade in the labour-districts; but we do object to their being enticed away the moment their original contract has expired by employers who have not gone to the expense of importing labour. If all or most of our coolies were recruited by garden-sirdars, as in the Surma Valley, I should not object to a three-year limit of contract; for though we might *not* in all cases recover the cost of importation during the period of the original contract there would be some reasonable guarantee that the contract would ordinarily be renewed on its expiration. Sirdari coolies ordinarily come up in families and settle down on the garden in a comparatively short time, and they are of better physique and capacity for work than contractors' coolies. But, as the Chief Commissioner, Mr. Ward, has pointed out so forcibly in paragraph 9 of his letter of August, 1892, a large proportion of the coolies recruited for the Assam Valley are, and for a considerable time to come must be, obtained through contractors. Contractors' recruits are of inferior physique, often single men and women without family ties, and not unfrequently indolent persons who could not, or would not, earn a livelihood for themselves in their own country. A three-year contract is certainly insufficient for such persons to form ties in, and to become attached to the garden, and I submit that nothing less than five years is sufficient for this.

"Moreover, I fail to see that the circumstances have changed in any respect since 1882, when a five-year contract was found to be necessary. The cost of importation and expenses of maintaining the coolie on the estate have certainly not become less; on the contrary, they have increased. The late Chief Commissioner of Assam, Mr. Quinton,* was of opinion that all the reasons which led to the extension of the period of contract in 1882 still applied with equal force. The present Chief Commissioner is strongly in favour† of maintaining the maximum of five years; and it is admitted by all authorities that the risk to the emigrant from sickness and death is chiefly confined to the first two or three years of his residence in Assam. I have only been able to find two serious arguments in favour of reducing the term of the contract.

"In the first place, it is said that it is desirable to restrict the scope of the penal contract system. I admit that this is sound in theory: no one would be more glad than employers of labourers if the conditions were such that the whole of the special labour law could be swept away. But, as I have endeavoured to show, the time has not come when the system of contracts can be restricted without injury to the employer, and therefore ultimately to the labour-system and to emigration generally. I think I am right in saying that five-year contracts are allowed in the case of emigration to the Colonies. If so, I see no reason why such should not be allowed in the case of emigration to Assam.

"Secondly, it seems to be assumed that with a shorter maximum period of contract the profits of professional suppliers and recruiters of labour will be diminished; that the number of professional recruiters will therefore become less; that consequently abuses in recruitment will also become less frequent; and that the field will be left more open for the recruiting of garden-sirdars and other non-professional recruiters sent down from Assam to bring up coolies. If there was any good reason to suppose that this would be the case, I should welcome the change: but I doubt if these results are likely to happen, and I see that the Chief Commissioner of Assam is inclined to share this doubt.‡ It is stated in Mr. Ward's letter, 'the *arkati*, the Chief Commissioner has been assured (and he sees no grounds for doubting the correctness of the statement made to him on this point), disposes of the coolies he has recruited at a valuation which is in no way dependent on the term for which they may be willing to contract.'

"It may be said that the cost of recruiting coolies has actually increased since 1882. This is true, and I also admit that *arkatis* and professional con-

* See page 108, Special Report on working of Act I.

† Mr. Ward's letter to Government of India, paragraph 9.

‡ Mr. Ward's letter to the Government of India.

tractors are (so far as the Assam Valley Districts are concerned) gaining ground on our garden-sirdars, but I do not see that it has been shown that the fixing of the maximum period of contract at five years has had anything to do with these results. The fact is that employers everywhere (in Assam, as well as in the tea-gardens in Bengal,) require much more labour now than they did ten years ago; we in Assam require every year at least double the number of labourers that we required ten years ago.

"The competition for labourers having increased to such an extent, it is not unnatural that the profits of professional recruiters should have increased also; I should like something more than mere conjecture before I can suppose that reducing the maximum term of contract to three years will effect a reform in the recruiting system. I do not myself see how it can be so. We should still have to recruit through contractors; the recruiters and *arkatis* would still have the same work to do as they have at present; the competition for labourers would not become less severe; and the contractors, I imagine, would be able to dispose of their recruits on the same terms as those which they now get. I can say that most employers of labour agree with me in the view that the reduction of the contract will not have the effect of lowering the cost of importation or reducing the profits of professional recruiters. That it will have this effect seems to be merely a conjecture on which I venture to think that it would be unsafe for the Legislature to act.

"The Hon'ble Mr. Chentsal Rao in his minute of dissent appended to the Select Committee's report has set forth a new argument which I have never heard before. He says that the only argument advanced during the discussions of the Select Committee in favour of the longer period of contract assumes that in a large number of cases labourers are only too ready to unfetter themselves of their contracts by paying large and (to them) ruinous sums for their release. 'Such an assumption,' he adds, 'if true, is a sad commentary on the lot of the labourers on tea plantations,' and he suggests that the supposed frequency with which contracts are redeemed throws an unfavourable side-light on the conditions of coolie life on tea-gardens. I think I shall be able to satisfy my hon'ble friend that his remarks under this head were written under more than one misapprehension. I have already shown, on the authority of the Chief Commissioner of Assam, the fallacy of supposing that a coolie imported at a cost of (say) R90 for three years would, as the Hon'ble Member supposes, work off R30 of the initial cost in each year of his contract. In the first year he would probably work off very little, taking into consideration the expenditure which would have to be incurred on him; in the second year he certainly would not work off a third of the costs; in the third and subsequent

years his work would be of the average value. Moreover, the risk arising from the deaths and desertions of a certain proportion of new immigrants (specially of contractors' coolies) has to be taken into consideration. I do not know how far it is permissible to refer here to what occurred during the discussions of the Select Committee, but, as the Hon'ble Member has done so in his minute, I will, with the permission of His Excellency the President, say a few words on the subject. I do not remember that any such argument regarding the redemption of contracts as that referred to by the Hon'ble Member was brought forward at the meetings of the Select Committee. I certainly did not bring it forward, and had I understood that any other member of the Select Committee had done so, I should at once have stated my opinion that the likelihood of a three-year contract being redeemed on the terms laid down in section 142 of the Act in no way affects the decision as to the maximum duration of the contract, and may be altogether disregarded in considering it. The grounds on which, as I understand, the Select Committee decided to recommend a maximum of four years were that section 142 of the Act fixes the value of the coolie's work to the employer at ₹1 a month in the first year, ₹3 a month in the second year, and ₹5 a month in each subsequent year, and that the total value of a coolie's work for three years thus ascertained, namely, ₹108, is not in all cases sufficient to cover the cost of importation. As a matter of fact, contracts are hardly ever redeemed. The number of contracts redeemed in each year are set forth in the return appended to the Annual Immigration Reports.* I find from Mr. Quinton's Special Report † and subsequent Annual Reports that 37 contracts were redeemed in 1886, 40 in 1887, 36 in 1888, 19 in 1889, 17 in 1890 and 6 in 1891.‡ During 1891 there was a daily average strength of more than 108,000 Act labourers in Assam. Of these an average strength of between 6,000 and 7,000 were under contracts for one year only,§ which they could have redeemed under section 142 of the Act by paying a sum of ₹12 only—a sum in many cases not more than the bonus paid to a labourer for entering into a one-year contract. Moreover, there were at least another 7,000 ‖

* The return at the end of the Reports, column 28.

† Page 129.

‡ Period of contracts redeemed not shown in the Reports.

§ The number of coolies who entered into local contracts for one year or less (as shown in the Annual Reports) was 6,408 in 1890, and 7,105 in 1891.

‖ The Annual Reports show that the number of coolies entering into local contracts for two years was in —

1889	3,550
1890	4,145
1891	4,915
	12,610

coolies under contracts for two years, which they could have redeemed by paying R48 only. Yet only six coolies redeemed their contracts throughout the province in the whole year. I think my hon'ble friend will now admit that (so far as these figures go) the 'side-light thus thrown on the conditions of coolie life on the tea-gardens' is highly favourable. The grounds on which I oppose the reduction of the contract period below five years are, first, that there is no guarantee that the work of the coolie will in less than that time enable the employer to recover the initial expenses of importing labourers and the continuing expenses and risk of maintaining them, while they are getting acclimatized and learning their work; secondly, that, with the stamp of persons sent up to the Assam Valley gardens there will be a risk of the employer incurring serious losses owing to the three years' limit or even the four years' limit being insufficient to attach the coolies to the garden so as to ensure them against being enticed away to other estates (especially by persons who do not themselves import labour); and that any such general enticement will lead to the demoralization of labour in Assam; and, thirdly, that the reasons for proposing a reduction are not of a practical nature and assume that certain results will happen, as to which there is no certainty or reasonable basis for forming any opinion, whether they will actually happen or not.

"*Redemption of Contracts—Section 24 of the Bill: Section 142 of the Act.*

"If the Council accepts my proposal to retain the maximum contract period at five years, section 142 of the Act will stand as it is at present. I have, however, no objection to its being declared that no coolie shall be required to pay more than R150 for redeeming any contract, and I propose that a proviso to this effect should be added to section 142 in order to meet objections such as those raised in the minute of dissent of the Hon'ble Mr. Chentsal Rao.*

"*Reduction of term of Garden-contracts to one year—Section 12 of the Bill: Section 111 of the Act.*

"Much of what I have said in moving my first amendment applies also to my second, that section 111 of the Act should be allowed to stand as at present, that is to say, that employer and labourer should be permitted to enter into contracts for the maximum period allowed by the Act without the intervention of a public officer. I may say that I think that this change (prohibiting garden-contracts for more than one year) is quite as open to objection, or more so, than the reduction of the maximum term of contract to four years. I have failed to dis-

* This was proposed by Mr. Quinton, page 130, Assam Special Report.

cover any reason for it, except, again, the theoretical one that it is desirable to restrict the present contract system.

"Since 1882, employers and labourers have been able to enter into local contracts for any period up to five years, whether direct on the garden or in the presence of the Inspector or Magistrate. I will not take up the time of the Council by going into arguments to show that it is necessary that the local contract system should be retained. The Government of India, in their published Despatch of October, 1891, have decided* that it is necessary to maintain it in the interests of the administration, and I have already said enough to show that, in my opinion it is still required as a safeguard against evils arising from the systematic enticement of labour. I think I am right in saying that a similar opinion has from time to time been expressed by various Chief Commissioners of Assam, including His Honour the present Lieutenant-Governor of Bengal, an extract from whose remarks, said to have been written in 1885, and quoted in one of the published letters of the Government of India,† I will take the liberty of reading. In my humble opinion it represents exactly the state of things now prevailing in the Assam Valley. His Honour wrote—

'As to the tea-coolie, the protection he gets, the excellent cottage he lives in, the good water-supply, the fairly cheap food, and the fairly reasonable wage he gets, are the *quid pro quo* granted in return for the penal clauses which compel him to carry out his part of the contract. He would not get the one without the other, and he would certainly be worse off if he had to part with both. The alternative would be a migratory class of labourers whom no one would go to much expense in hutting and providing for, because he could not be sure of retaining their labour; who would be constantly shifting from one place to another under the influence of enticement and bribery; who would have to build their own houses and would build them of poor materials on unhealthy spots; who would be entitled to no medical care when ill, and would have no opportunity of making complaints or getting grievances redressed such as they have now, when the Inspector's official visit takes place. Such a state of things would be good neither for their *morale* nor for their bodily welfare, but such a state of things would necessarily arise as long as population is scarce and the labourer of great value to the planter, if the law did not intervene to give permanence and solidity to the mutual relations of planter and labourer.'

"The proposal to modify the system of local contracts seems to have come from the Government of India.‡ It was first proposed absolutely to prohibit

* Paragraphs 10 to 12 of Despatch.
† Letter of 5th October, 1891, to Government, Bengal, paragraph 20.
‡ Paragraph 19, letter to Chief Commissioner of Assam, dated 5th October, 1891.

contracts being entered into for more than one year with time-expired emigrants who have served out their original contracts, and with local coolies, natives of Assam, and emigrants who have become domiciled in the labour-districts. We are glad to see that the proposal in this form has been dropped. It would have been in practice a most vexatious and unworkable restriction and would not have been to the interest either of employers or of the labourers who, when they renew their contracts for periods longer than one year, do so with the desire to obtain a larger initial bonus; but I submit that the present proposal to prohibit local contracts for more than one year, except when entered into in the presence of a Government officer, is also open to objection, and that no necessity has been shown to exist for it.

"On the Assam Valley side the change will chiefly affect contracts entered into with time-expired and local coolies; for very few new coolies are brought up to the garden without being already under a contract executed either at Dhubri or in the recruiting districts. Now, what is the necessity for limiting the term of a direct contract executed with time-expired and local coolies to one year? Both Mr. Quinton and Mr. Ward have distinctly expressed their opinion that such coolies are well able to look after themselves in making contracts; and this opinion seems to have been accepted by the Government of India in Sir E. Buck's letter of 5th October, 1891.* One or two cases may have occurred in the last few years in which contracts may have been obtained by undue pressure; but I think it will be admitted that planters have shown little sympathy with the employer at fault in such cases. Section 111 of the Act, however, which provides that the labourer must appear before the Inspector on his next visit to the garden to have his contract verified, is, I submit, a sufficient check for such cases, and we are told that the system of inspection and verification is going to be much strengthened. It has not been alleged that the results of verifications have hitherto been unsatisfactory, or have shown that these contracts are, to any extent calling for action, exacted by undue pressure.

"I believe that very few contracts are taken in Sylhet and Cachar under the Act from local and time-expired coolies; and that the majority of such contracts are entered into with new emigrants. It is obvious that, in any case in which an employer pays the expense of bringing an emigrant to the garden, he cannot be content with a one-year contract. All new coolies whom it is pro-

* Paragraph 19.

posed to place under the Act will therefore have to be produced before an Inspector or Magistrate. Now I do not contend that a new emigrant is in as good a position to make his own terms in entering into a contract as time-expired and local coolies; but I would point out that Sylhet and Cachar are districts comparatively near Bengal, the circumstances of which are well known to the emigrating classes, and to which free emigrants go in large numbers. The Health Act enables the Government to watch these emigrants in the course of their journey, and the more stringent powers as to inspection, verification and repatriation, which the Bill now before us gives to the Magistrate and Inspector, will be a sufficient safeguard for allowing the practice of direct contracts, which has been carried on for these ten years, to continue.

"I submit, therefore, that the change is wholly unnecessary. I am, moreover, doubtful if it will have the desired result. The intention seems to be that employers should ordinarily content themselves with a one-year local contract. If this really happens, the use of Act contracts will certainly be restricted. But, if, on the other hand, provisional contracts are taken for one year, and then the labourers (as opportunity offers) are taken before the Inspector or Magistrate and placed under contracts for longer periods, I do not see how the change will lead to the disuse of the Act. I do not say that this will happen; but it is a probable result.

"I am not sure if it has been realized how much trouble and inconvenience will be caused to the employers and labourers as well as to the officers themselves if any considerable numbers of labourers are produced before the Inspector or Magistrate for the execution of their contracts. Many gardens are at a long distance from head-quarters. Communications are difficult in Assam, especially in certain seasons, and the journey may have to be made at unhealthy times of the year. The employer will be put to additional expense in keeping up an establishment to send in with coolies, and the coolies themselves may lose their wages for two or three or more days, besides undergoing much discomfort. Moreover, the Magistrate or Inspector (there may be only one such officer at a sub-division) is, I believe, required to be on tour for not less than 120 days in the year, and the employer has no means of knowing where he may be at any particular time. The journey may have to be made two or three times before he can be found. Even when he is at head-quarters, he is engaged in other work, and there must be some delay in attesting the contracts of batches of

labourers. Meanwhile the labourers will be kept hanging about the cutcherry and will be liable (especially if they are new coolies) to be tampered with by unscrupulous persons and exposed to the bribery and enticement of other employers and their crimps. The alternative of putting the labourer under a provisional contract for one year, and then taking advantage of the Inspector's visits to the garden or neighbourhood to execute contracts with them for longer periods will also cause trouble and inconvenience, and possible expense in stamp and registration fees, owing to the renewal of contracts before the former ones have expired, and the cancelment of existing contracts at irregular and uncertain intervals. I also ask Hon'ble Members to consider whether such ignorant people as coolies in this country would not become suspicious and distrustful if they were asked to renew their contracts in this manner at short notice. Again, employers in Sylhet and Cachar will not be able to follow this alternative course with new emigrants imported at their expense, as the coolie will probably consider that the one-year's provisional contract is his original contract, and demand a bonus (according to the usual practice) before consenting to a renewal.

"Another serious objection is that the change may be taken as an indication that the Government distrusts employers. I do not for a moment think myself that this is the case, and I admit that any such idea would be inconsistent with what the Government of India have said in published documents. But this may, and probably will, be the view in which the change will be regarded; especially by the coolies: and any such impression among them will certainly not promote the good relations of employers and labourers.

"For these reasons I submit that the proposed change in section 111 is open to serious objection, and that garden-contracts between employer and labourer should be permitted up to the maximum allowed by the Act."

With the permission of His Excellency the President the Hon'ble MR. STEVENS moved that in the paragraph proposed to be substituted for the penultimate paragraph of section 9 of Act I of 1882 by section 5 of the Bill, for the word "four" the word "three" be substituted, and the last thirty-six words omitted, as it was found convenient that this amendment should be considered simultaneously with the amendments proposed by Mr. Buckingham. He said:—

"With Your Excellency's permission I will move the amendments of which I have given notice. In doing so I have to represent that I am

introducing no novel suggestion of my own, but am seeking to restore a provision which is universally approved in the recruiting districts, and which after very mature consideration has commended itself to Your Lordship's Government and to the Secretary of State, but which has been modified by a narrow, and (as I venture to think) somewhat hesitating, majority of the Select Committee. One reason alone has been brought forward in the report, and that is that the majority are not satisfied that a three-years' term is sufficient to recoup the employer the expenses incurred in importing the labourer and maintaining him during the period of his acclimatization in the labour-districts. But this is not a new consideration; it has been brought forward again and again; and I had hoped that it had been finally rejected.

"It is admitted that it does not apply to Sylhet and Cachar, and I think I may justly assume that it has as little application to the nearer districts of Assam. I may say by the way that to the Tarai and Duars Districts emigration is entirely free, and there are no special penal contracts whatever. Only in the more remote and less desirable and healthy tracts in the Brahmaputra Valley do the planters appear to need a longer term than three years. And I regret to find that my hon'ble friend Mr. Buckingham is not content even with the four years' term which the Bill as amended by the Select Committee would give, but takes strong exception to any reduction from the maximum term of five years allowed by the existing law, and now seeks to retain that law. I acknowledge and regret that I have no personal experience of the labour-districts; but I have served for a considerable period in the recruiting districts, and wish to be understood as bringing forward the arguments which occur to me as looking at the subject from the point of view of those districts.

"The most powerful advocacy of the views of the tea-planters is to be found in the report from the Chief Commissioner of Assam dated the 12th August last. To the arguments contained in this letter the Indian Tea Association admit their inability to make any addition. With Your Excellency's permission, I therefore propose to address myself to them. I do so with great diffidence, having regard to Mr. Ward's great experience and local knowledge, and I regret that my remarks may have the appearance of a somewhat invidious criticism; but this is scarcely avoidable since the report is put forward as containing the adopted exposition of the views of the planters of Upper Assam.

'The real point for determination' (Mr. Ward says) 'is whether any valid ground has been made for reversing a decision arrived at after full consideration before the passing of the present Act.'

"It has never, so far as I am aware, been suggested by any one that the existing law should be in any respect final. It has been generally recognised that to bind a labourer for a long period by a penal contract with strong measures of procedure for its enforcement is an evil, only justifiable on account of necessity or at least of some greater good to the labourer himself. The policy of Your Excellency's Government, which has received the approval of the Secretary of State, is to direct all amendments of Act I of 1882 to facilitating the disuse or abolition of the system of penal contracts on which that law is based. On every occasion, therefore, on which the law is before this Council for amendment, those who support the present system must expect to have to justify every material part of it. And I venture to assert that circumstances have greatly changed since 1882. Those who do not admit this, if there be any, forget that the Government is doing all it can to improve communications, for the express purpose of conveying labourers cheaply and expeditiously to Assam. And they also forget a most important and unforeseen effect of Act I of 1882 itself.

"One main object of that Act was to encourage the growth of a system of really free emigration, whether at the expense of the coolie or assisted by the employer, and to discourage the contractor system, which was believed to be one of the main causes of the delay, difficulty and expense connected with emigration to Assam. The very strong and able Commission, which was appointed by the Government of Bengal to consider the whole subject and to indicate the necessary legislation, gave utterance to the following opinions:—

'We have no doubt whatever that most of the abuses attendant upon the engagement of natives of India for emigration purposes have been attributable to the operations of professional contractors and recruiters; and we believe that the only way to put inter-provincial emigration on a sound and natural basis, and at the same time to diminish the cost of procuring labour, is to sever all connection between garden-sirdars and contractors' depôts, and to give the widest scope to the working of the sirdari system; providing at the same time, in the employer's interests, for the effective control of the sirdars when engaged on recruiting duty. The fiction that the garden-sirdar is sent back to induce only his own immediate relatives to return to the garden where he has prospered must be given up. He must be recognized as a recruiter, but as a recruiter directly commissioned by the employer himself, with personal knowledge of a labourer's life, and of whom his employer has personal knowledge. He should not be allowed to degenerate into a pro-

fessional crimp, and his certificate should, therefore, run only for a limited period, and be renewable only with the consent of the Magistrate of the labour-district. We should have been glad to see the contractor and his recruiters abolished altogether. But, apart from the injury to individuals, which the summary closing of an industry would certainly inflict, it is probable that there are some gardens which are not yet in a position to employ sirdari recruiters, and must for the present depend upon professional assistance in procuring labour.'

"The Bengal Government supported the Commission's recommendations, and anticipated that the coolies sent or going to labour-districts to contract there would go chiefly to the nearer districts of the Assam Valley and Cachar and Sylhet, while the garden-sirdari system would be suitable for Upper Assam and for occasional gardens in other places. In discussing the Bill in Council more than one Member hailed the measure as likely to have the effect of leaving the emigration of coolies less and less in the hands of professional recruiters and contractors, and of bringing the employer and the employed into earlier and more immediate contact.

"After the Act was passed it was observed in a Resolution of Your Excellency's predecessor in Council that—

'it is not expedient that the operation of contractors in the recruiting districts should be at once freed from all control; and it is not intended that the system of local agency (which may be paid agency) should be utilised to introduce a new class of contractors who would work on the recruiting districts outside the provisions of the law.'

"But contrary to these anticipations and intentions a new system of professional recruiting outside the Act has grown up, and has not only seriously interfered with the sirdari system which the Government and the Legislature of the day desired to foster, but has almost destroyed the old contractor-system which has been hampered by the restrictions imposed by the law. Its methods and procedure in recruiting simulate those of the legal system; but the legal safeguards and restraints are wanting, and to this source are traced most of the abuses which now exist in the recruitment of labourers. It is only just to say that the planters themselves (as reported by the late Mr. Quinton in his special report) are fully alive to the abuses which have arisen from unregulated recruiting and are willing to do all in their power to assist Government to suppress them. 'It is evident, therefore, that the Act requires to be reconsidered, and that this new and objectionable form of recruiting should be especially discouraged.

"The system depends entirely for its existence on one circumstance, *viz.*, that a labourer delivered at the garden is under present conditions worth a certain sum in cash, which varies according to his nationality and healthiness. This amount is largely in excess of the actual cost of recruiting the labourer and transporting him to the garden. I have no means of ascertaining precisely how much the labourer generally receives as an inducement to emigrate, but believe that the *arkati* obtains at Ranchi about Rs. 40 per head. This is, therefore, the extreme limit of what can be given to the coolie. As a fact, it is unlikely that he ever obtains anything near this sum.

"I have examined a number of cases in which recruiters in Lohardugga have prosecuted under the Penal Code men whom they alleged to have taken advances and not proceeded on their journey, or to have absconded on the way. In two instances the amount advanced is said to have been Rs. 20, and in all the rest Rs. 10 or less. If from Rs. 10 to Rs. 20 be taken as the expense of the journey, we find that the actual amount received by the coolie does not exceed from Rs. 30 to Rs. 50. The garden-sirdar actually delivers his coolies for from Rs. 40 to Rs. 70. Yet the planter has to pay Rs. 100 to Rs. 120 per head to the contractor, and I was informed lately that even so much as Rs. 150 has been paid for the best procurable labourer.

"The fact that a planter is able to pay down such a sum as the price of the coolie is attributable solely to the penal contract which is made under the Act. The Chief Commissioner, in his report of August last, writes thus:—

'The assumption that *arkatis* charge more for five-year than for three-year coolies, Mr. Ward has been informed by every planter he has met, is also incorrect. The *arkati*, the Chief Commissioner has been assured (and he sees no ground for doubting the correctness of the statements made to him on this point), disposes of the coolies he has recruited at a valuation which is in no way dependent on the term for which they may be willing to contract.'

"Mr. Quinton, on the contrary, says in his special report on the working of the Act that a higher fee is paid as commission for the recruitment of a coolie who contracts for five years than for one who contracts for three years, and that it is therefore to the contractor's interest to induce the recruit to agree to the maximum term. Mr. Ward's assertion must be of course accepted that, so far as his information goes, no higher price is paid in one case than in the other; but an evident reason for the fact, where it is a fact, is that the proportion of three-year contracts made at Dhubri by immigrants into Assam is so very small that it is sometimes not worth while to distinguish between the prices in particular instances,

and an all-round price is arranged. But it seems to me impossible to believe that, if the three-year limit were now adopted, the price of coolies would not go down. If, instead of five years, a ten-years' limit were permitted, or (to take the extreme case) if a contract could be made for life, it is incredible that the immediate and present value of the contracting coolie, bound as he is by a strict penal law, would not be much higher than it is even now. And, if, instead of three years, the term were reduced to one, it would be out of the question that the planter should be able to give a large bonus in addition to the bare cost of a present to the labourer and the expense of transporting him to the garden. I cannot, therefore, concur with Mr. Ward in thinking this consideration of no importance. On the contrary, it appears to me to go to the root of the whole question.

"In addressing the Chief Commissioner, Your Excellency's Government brought forward the argument that it is not known how many of the desertions and how much possibly of the mortality may be due to a feeling of despair engendered in the coolie who has contracted for the longer time; this is regarded as scarcely calling for serious consideration. The argument is necessarily indefinite and the extent of its applicability unknown, but practical experience has shown that this very thing has happened elsewhere. And, until the contrary is proved in any particular case, it is a safe rule to assume that human emotions are very much the same, and that a coolie from Chota Nagpore is not exempt from the depressing influences which affect others under similar conditions.

"'The arkati coolie' (says a manager of experience quoted in the special report,) 'is a perfect stranger among strangers.' 'Absence of family life in the garden' (writes Mr. Quinton) 'follows from the system of recruitment adopted, and is one to which the Chief Commissioner attaches great importance.' Now, when such a coolie finds himself under such conditions in a remote and unhealthy spot, with his fellow labourers undergoing the process of acclimatization around him, it seems right to assume that his feelings will be those of any ordinary human being, and that the thought that he is bound under pain of imprisonment to stay and work out his full term of five years may well depress him and predispose him to sickness. However this may be, the desertions are facts, and the heavy mortality and sickness are facts, and of such we hear comparatively little in the case of the perfectly free emigrants to the Tarai and the Duars.

"It is considered by the Chief Commissioner that there is no ground for the statement that in the Brahmaputra Valley healthy gardens do not want five-year contracts. In the sense that healthy and accessible gardens as well as unhealthy and remote gardens would like to have five-year contracts,

this is probably correct, but the needs of gardens of the two classes are certainly not the same, and there appears to be no reason why the nearer tracts of Assam should not be on the same footing as Sylhet and Cachar. Throughout the discussions on this subject the differences have been acknowledged.

"It comes then to this, that, if a longer term than three years is to be allowed, it is for the purpose of furnishing labour to the more distant and less healthy and desirable tracts. The Chief Commissioner thinks it right (to use his own words) to give the Brahmaputra Valley planter 'something more for the cost he incurs, the inferior article he has to put up with, and the consequent risks he runs in losing by death or desertion the coolies he has paid for, or in having his garden declared by the Government to be unfit for the particular class of coolies that he imports.' But the cost which the planter incurs is greatly enhanced by the nature of the agency which he employs, and which is in a great measure forced upon him since it has risen up under the favourable conditions of the present law. It seems eminently unfair to recover this from the coolie. And I cannot see the justice of providing that an 'inferior article' recruit for a garden in which he is scarcely fit to work should be made to reimburse the importer for his own chances of sickness or death, and even for the risk which the employer runs of having his garden closed through the mortality among the 'inferior articles' whom that employer has to put up with! Further, the sirdari coolie who has been imported at a cost of Rs. 50 is to be bound for the same period as the contractor's coolie for whom double the amount has been paid, and the strong and healthy 'first class jungly' (as I believe he is technically called) from Chota Nagpore has to make good the same amount as the feebler and more hazardous recruit from the North-West or Behar! But he is in a worse position, since the Commissioner's report shows that more of these 'inferior articles' for whose defects especially the planters must be compensated are now being recruited, and that they often decline to contract for more than three years. Consequently it is for the strong Chota Nagpore recruit to make up by his labour-contract for five years, which he is too stupid to object to, for the unhealthiness and weakness of the Behar or North-West coolie who is sharp enough to refuse to contract for more than three years.

"Under section 142 of the Act, as it stands now in force, a coolie recruited for five years who may repent of his bargain cannot obtain his release for less than Rs. 228. This is double the present cost of an ordinary contractor's coolie, and four times the cost of a sirdari coolie. If the fourth and fifth year were taken off, the amount would still be Rs. 108, or approximately the whole cost of obtaining an

ordinary contractor's coolie. And this seems to me to be quite as much as even a contractor's coolie could be expected to make good; it is far more than should be paid in money or in labour by a sirdari coolie.

"I cannot indeed think it equitable that, when the employer is even more anxious to obtain the labourer than the labourer to find the employer, the whole expense of bringing them together should fall on the labourer. The whole question seems to me to come to this: the planter is able to spend a certain sum for labour; it is to his interest as well as to that of the labourer that as much as possible of this should go into the hands of the person who actually works, and that a large fund should not be created out of it to be coveted and fought for by a horde of unscrupulous *arkatis*. If the market-value of the coolie in cash is reduced, the amount available for the cost of recruiting him must be reduced also, the competition among the recruiting agents will become less acute, and in all probability the smaller men will betake themselves to other trades. On the other hand, whatever the planter can give will go to the labourer, and will tend to improve his condition and make him more contented. I believe that the limit of three years will go far to produce these results.

"In reference to section 12 of the Bill I have merely to say that, whatever justification there may be for giving a longer limit than three years in the case of a labourer when originally imported, there appears to be none for doing so in the case of one who makes a fresh one in the labour-district. The employer has not to reimburse himself for any expense of importation, and a three-years' contract appears to be quite enough to permit of any bonus which the coolie is likely to require.

"In conclusion I need hardly disavow the slightest desire to hamper the planter in the collection and transport of labourers. On the contrary, I entirely believe in the humanity and enlightened self-interest of the great body of the planters; I fully recognize the enormous importance of the industry, and I regard it as the duty of the Legislature to facilitate in every reasonable and justifiable way the meeting of employer and labourer on free and equitable terms, and the transfer to comfort and plenty of those who obtain but a scanty and precarious livelihood in their own poor and over-populated districts."

The Hon'ble SIR GRIFFITH EVANS said that he had not intended to offer any remarks on this question, as he had not been a member of the Select Committee and had been too busy to study the details of the measure. He had listened attentively to the speech of the Hon'ble Mr. Stevens. Mr. Stevens admitted the great

desirability of getting men who were living in the congested districts out of those districts to the valley of the Brahmaputra, where they would find plenty of food and good wages; but it was doubtful whether he had realised how great the boon was to the labourers in those overcrowded districts to have their passages facilitated from a land of perpetual hunger and scanty pay to a land of plenty, where hunger need never be known and where the wages were good enough to allow them to save money. Had he kept this before his eyes he would hardly have indulged in so much sentiment as to separation from family ties. Still less would he have suggested that a coolie who could easily stand expatriation for three years would be likely to sicken and die of despair at the thought that he would not see his native village for five years instead of three. This was hardly an argument to place before a practical body of men many of whom were emigrants themselves for a much longer period than five years. He should himself be inclined, after listening to the discussion which had taken place, to agree with the view that a four-years' term would probably be best. It seemed to him that a considerable step had been taken in cutting the period down from five to four years, and that it should not be further reduced.

The Hon'ble DR. RASHBEHARY GHOSE said that, with regard to the proposal that the maximum period ought to be limited to three years, he would beg to point out, in addition to the reasons given by the Hon'ble Mr. Stevens, that the provisions of section 492 of the Indian Penal Code—a section which made breaches of contract in certain cases penal—could only be brought into play when the term of the labour-contract did not exceed three years, and in reducing the period of five years to three they would bring the Inland Labour Law into line with the provisions of the Penal Code.

The Hon'ble SIR PHILIP HUTCHINS said:—"I have not much to add to what I said before with regard to the amendments to lengthen or reduce the period for which labourers may be permitted to engage. The exact period must be to some extent a matter of opinion and estimate, but, on the whole, I am still in favour of the four-years' term, as a maximum as most equitable to all parties.

Sir Griffith Evans has, I think, correctly explained what Mr. Ward meant in regard to the feeling-of-despair theory, and Mr. Stevens seems to have somewhat misapprehended him. This theory or objection originated with myself: I do not think I have found any one who regarded it as entitled to any weight, and I must confess that I now consider that the view taken by Mr. Ward and Sir Griffith Evans is sounder and more practical.

BENGAL SECRETARIAT LIBRARY

"It is of course optional with the coolie whether he will engage for the maximum term, and in this connection I may here state that I failed to mention one of the reasons which induced me to agree to Mr. Mackay's proposal to substitute four years for three in the Bill. Formerly nearly all Dhubri contracts, and very few executed elsewhere, were for five years. But during the last two years, about twenty per cent. of the Dhubri engagements have been for three years only. There is, therefore, no longer reason to doubt that the immigrants not only have, but exercise, an option.

"On the other hand, I do not altogether agree with Mr. Buckingham that the cost of a coolie is absolutely independent of the length of his engagement. Very possibly the contractor makes no enquiry of any particular man what term he is prepared to serve, but conducts his business on a rough average principle—so many will go for three years, so many for five, and so on. But, if the maximum term is reduced, the average will also fall, and I think the cost should fall too.

"It has been urged that the so-called 'price' of a coolie at Dhubri is not (so to speak) a consideration moving from the coolie himself; but I submit that the expenses of his journey, as well as reasonable agency charges, may properly be taken into account. A sirdari labourer costs very nearly as much as one supplied by a contractor, and it was recognised in 1882 that the employer should have some reasonable return for all expenses incurred by him, *or on his behalf*, in bringing up labourers. The system which has sprung up is a great private emigration agency, over which we maintain such control as seems essential to prevent abuses, but with which we interfere otherwise as little as possible.

"The reasons why we thought it necessary to continue to allow penal contracts by old immigrants or natives of the labour-districts have been fully stated in our Despatch of October, 1891. Briefly stated, they are—

that such contracts are necessary as the *quid pro quo* for decent lodging, protection and general amenities on which we insist;

that they are necessary to prevent enticement and desertion just when labour is most needed;

that the alternative would be engagements under Act XIII of 1859, which gives the labourer no compensating advantages;

that there is great difficulty in distinguishing between old and new labourers; and, lastly,

that it is a manifest advantage to keep all classes of labour under one uniform law.

"There is no reason whatever to doubt that the old hands and local labourers take care to exact a bonus or other full consideration before executing a contract. A large proportion of these contracts are for one or two years only, but if they wish to settle down for longer there is no reason why we should prevent them. They will certainly not do so without a proportionately larger bonus. I should have been quite prepared to cut down these contracts by local labourers and re-engagements of old labourers to three years, if it had been possible to distinguish them. But, as I have said, they are fully competent to look after themselves, and section 112 has to cover all local contracts, including those made at Dhubri or elsewhere on first arrival. The advantages of a uniform law are so obvious that I strongly deprecate any attempt to draw distinctions.

"On the other hand, the Government of India have thought it wise to limit to one year the term for which an agreement may be made otherwise than in the presence of a responsible officer. It is not that we think that improper pressure is really exerted, except perhaps in very rare cases, but some people certainly believe that it is employed, and it cannot be denied that opportunities for using pressure do exist. Officers will assuredly take more care about contracts actually entered into before them than about mere verification. There is a widespread apprehension, however unfounded it may be, that verification is apt to degenerate into the simple issue—'did you sign, aye or no?'"

His Honour THE LIEUTENANT-GOVERNOR said:—"I confess that I saw with some regret that the Select Committee had agreed to this compromise and had raised the term from three years to four years. Writing on behalf of the Government of Bengal, I expressed my complete acquiescence in the reduction to three years. For many years I have held that view and I still think it desirable, but I recognise that the matter is one on which there is a great deal to be said on both sides, and I attach the greatest weight to the fact that the Assam Administration has opposed any reduction of the period. I do not think it desirable to press the Bengal view as represented by the Hon'ble Mr. Stevens and myself on behalf of the recruiting districts, against the view of the Assam Administration and the tea-planters, as representing the labour-districts.

"Another argument had great weight with me, and I mention it particularly because though I do not suppose I am more difficult to convince than most people, still I think that it seldom happens to us to come down to Council and have our views changed in the course of a debate. It certainly was the opinion of the Government of Bengal in 1890 that the enhancement of the

contract period had decidedly increased the competition among the *arkatis* for coolies, and so lately as February last Mr. Grimley, the Commissioner of Chota Nagpore, wrote that—

'I entirely approve of the proposal to reduce the term of the contract from five to three years, as it will have a tendency to reduce the chance of malpractices. The longer the term of the contract, the higher the price set on his head, the keener the competition for him among *arkatis*, and the greater the chance of abuses.'

"This certainly was my impression, and it was borne out by what I was told when I travelled in Chota Nagpore in July and November last, and it was also shared by the Hon'ble Mr. Stevens. But from what my hon'ble friend Mr. Buckingham has said there appears to be great doubt as to whether that impression is based on any sound basis. At any rate he has put forward a '*vera causa*," a cause which is probably true, and is sufficient, if true, to produce the results we see, when he asserts that it was not to the increase of the period but to the increase of competition for coolies, due to the demand for a larger amount of labour, that the increase in cost is attributable. I certainly think this may account for the facts and that the argument I relied on has not the same weight which I thought it had.

"With regard to section 112, the case against the four-year period is stronger. The view of the Select Committee that the period of three years is not sufficient to recoup the employer for expenses incurred does not at all apply to the case of the local labourer whose period was to have been reduced to three and is now raised to four years, and I have even more reluctance to accede to that alteration in the original Bill than to the first one. But, on the other hand, my hon'ble friend Sir Philip Hutchins has argued that it is very desirable to make the law uniform. I have agreed, for the reasons already stated, that for the Dhubri contracts the four-year period is the right one, and unless you alter the law the result will be that you will require a different section for the Dhubri contracts and for the local residents of the district, as it would be impossible to say in the same section that in the one case there should be a maximum of four years and in the other that there should not be such a maximum. It would be a difficult matter to effect such an alteration in the draft of the Bill at the present moment, and I am therefore prepared to accept the Bill as it stands amended by the Select Committee; but I hope it will not be for very long. The time will come when the Council and Your Excellency will feel justified in reducing the period from four to three years; and by gentle steps of that kind we shall gradually reach that object, which, we all aim at, of abolishing the anomalous conditions under which

labour exists in Assam and by introducing free labour and free emigration from Bengal and the North-West."

The Hon'ble SIR ALEXANDER MILLER said:—"When this point was first considered by the Select Committee there was a very distinct majority in favour of maintaining the word 'three' as it was found in the draft Bill. That, speaking for myself, was only altered to 'four' on what I understood to be a bargain on the part of the two gentlemen—the only two—of the Select Committee who were anxious to maintain the longer period, that the concession of three to four would be accepted as settling the question as far as it could be settled, and thereupon the word 'four' was put into the draft Bill by my casting vote—a vote which I would not have given had I supposed that the question would be afterwards treated as open. It appears to me that the only justification for these labourers being under a penal contract at all is that it is to their interest that they should be brought up to the labour-district, that they cannot bring themselves up there as they have not the means, and it is not worth the while of the employers to bring them there unless they have the hold over them which is given by a penal contract of this kind. The question therefore to my mind, when you come to consider the time, is, what is such a length of time as will fairly compensate the employer for his initial expense and give him such a margin of profit as will make it worth his while to bring the labourer up to Assam? Now, I confess that in the calculations which we made in the Select Committee on the subject I was more or less misled by the terms of section 142 of the Act. I am now satisfied, more especially when I have the Hon'ble Mr. Buckingham's evidence that sirdari coolies are better than contractors' coolies, and that you can get sirdari coolies up to Dhubri for not more than Rs. 75, and then taking the estimate of section 142 as a fair estimate of what a man's labour was worth, I found that three years amounts to Rs. 108, and I think that, if you give a man labour for this amount from labourers who one with another do not cost him more than Rs. 75, the margin between the two is quite sufficient to make it worth his while to run the risk of loss by death or desertion. Any extension of the period of the penal contract seems to me calculated only to increase the profits of the contractor, at the expense of both labourer and employer. Therefore, if my hon'ble friend Mr. Stevens presses his amendment to substitute the word 'three' for 'four" I shall vote for it.

"On the other question I cannot see that there is any hardship whatever to an employer if he is obliged, in case he desires that a labourer should enter into a fresh contract with him, to bring him before an officer who will see that the

contract is a fair one, and that the labourer has received a fair consideration for entering into this penal contract; and I was myself anxious that a clause should be put into the Bill providing that it should be part of the duty of the Inspector to see that the labourer had received adequate consideration for entering into the renewed contract. The majority of the Select Committee, however, thought that sections 111 and 112 as altered sufficiently safeguarded his interests. I cannot see any justification for allowing a man to put himself under a contract by which he is exposed to sudden arrest and imprisonment for six months without at least giving him security of this kind.

"Then the provision in section 111 which now proposes to allow an employer to enter into a labour-contract for a term not exceeding one year is under the peculiar circumstances of the case a useful one, because it might be extremely difficult for the employer to bring all these labourers up to the central station and put them under new contracts, and therefore some opportunity must be given to the employer to keep those men with him for a reasonable time until the contracts can be renewed. He can always arrange for a visit of the Government officer within the year for the purpose of renewing these contracts, and they can then be renewed for three or four years according to the terms of the Act.

"I quite agree that under the circumstances of this Bill it is impossible to put one term for the original contract and another for the local contract. The Hon'ble Mr. Buckingham says that when a man is engaged only for a year he will of course before consenting to a renewal ask for a further bonus. So far from considering that an objection, I think it is rather an argument in favour of the proposal, because I do not think any one ought to be allowed to enter into such a contract without getting, in some form, a handsome bonus, and consequently I do not think that there would be any hardship in it."

The Hon'ble MR. BUCKINGHAM'S amendment that section 5 of the Bill as amended by the Select Committee be omitted was then put and negatived.

The Hon'ble MR. STEVENS' amendment, that in the paragraph proposed to be substituted for the penultimate paragraph of section 9 of Act I of 1882 by section 5 of the Bill, for the word "four" the word "three" be substituted, and the last thirty-six words omitted, was then put and negatived.

The amendment of the Hon'ble MR. BUCKINGHAM that in the new section proposed to be substituted for section 111 of Act I of 1882 by section 12 of the Bill the words "for any term not exceeding one year commencing from the date of the execution of the contract" be omitted was then put and negatived.

The following amendments, of which notice had been given by the Hon'ble MR. BUCKINGHAM, were then withdrawn :—

(1) that in the new section proposed to be substituted for section 112 of the said Act by the same section of the Bill, for the words "Notwithstanding the provisions of section 111, any employer may enter into a labour-contract with any native of India in a labour-district for any term not exceeding four years commencing from the date of the execution of the contract, if he appears," the words "Any employer desirous of entering into a labour-contract with any native of India in a labour-district may, instead of executing such contract under section 111, appear" be substituted ;

(2) that for section 24 of the Bill the following be substituted, namely :—

"24. To the last paragraph of section 142 of the said Act the following shall be added, namely :—

'Provided that the amount payable by a labourer to redeem the labour-contract shall in no case exceed one hundred and fifty rupees.'"

The amendment by the Hon'ble MR. STEVENS that, in the section proposed to be substituted for section 112 of the said Act by section 12 of the Bill, for the word "four" the word "three" be substituted, was then put and negatived.

The amendment, of which notice had been given by the Hon'ble MR. STEVENS, that in section 24 of the Bill, for the words "third and fourth years" the words "third year" be substituted, was then withdrawn.

The Hon'ble SIR PHILIP HUTCHINS then moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 30th March, 1893, His Excellency THE PRESIDENT remarking that the discussion of the Financial Statement would take place on that day.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India,
Legislative Department.

CALCUTTA ;
The 30th March, 1893.

Government of India Central Printing Office,—No. 504 L. D.—4-4-93.—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Acts of Parliament 24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14.

The Council met at Government House on Thursday, the 30th March, 1893.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G., G.M.S.I., G.M.I.E., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
The Hon'ble Sir P. P. Hutchins, K.C.S.I.
The Hon'ble Sir D. M. Barbour, K.C.S.I.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. L. Mackay, C.I.E.
The Hon'ble Dr. Rashbehary Ghose.
The Hon'ble Palli Chentsal Rao Pantulu, C.I.E.
The Hon'ble Sir G. H. P. Evans, K.C.I.E.
The Hon'ble Fazulbhai Vishram.
The Hon'ble C. C. Stevens.
The Hon'ble J. Buckingham, C.I.E.
The Hon'ble A. S. Lethbridge, M.D., C.S.I.
The Hon'ble J. Woodburn, C.S.I.

QUESTION.

The Hon'ble Mr. FAZULBHAI VISHRAM asked—Whether the Government of India has received a second memorial, the first having been submitted in 1885, from the Cutchee Memon inhabitants of Bombay, who are Muhammadans and therefore desire to be governed by the Muhammadan law, praying that the draft Bill prepared by their community to abolish the application to them of the Hindu law relating to succession, inheritance, divorce and kindred matters may now be passed into law; and, if so, whether the Government of India intends to take any, and what, steps in the matter, which is one of great importance to those concerned.

The Hon'ble SIR ALEXANDER MILLER replied:—"The Government of India has not yet received the second memorial referred to in the Hon'ble Member's question, though a duplicate of that memorial had been forwarded to it by the attorneys for the Cutchee Memon community in Bombay with the intimation that the original is being sent to the Government of India through the Government of Bombay. Until the original reaches the Government of India and the views of the Local Government thereon have been ascertained, it is impossible for the Government of India to state what action, if any, it is prepared to take with a view to meeting the wishes of the memorialists.

"I may add that the Government of India is fully alive to the great importance of the subject to the members of the Memon community. In response to the first memorial referred to in the Hon'ble Member's question, a Bill on the subject was, with the concurrence of Government, actually introduced into the Legislative Council of the Governor General in 1885 by the Hon'ble Mr. Amir Ali (now Mr. Justice Amir Ali of the Calcutta High Court). This Bill was not proceeded with, because it was found that the members of the community were not unanimous in opinion as to the law which should govern them, one party advocating the application of the Muhammadan law of the Hanafi school in its entirety, and the other desiring the maintenance of the special customs which had in the past been respected by the Courts.

"Two bills were in fact submitted to the Government—one which was adopted by Mr. Amir Ali, which was purely permissive, enabling such of the Memon community as desired it to place themselves individually under Muhammadan law, and another, which was, I believe, that favoured by the majority of the Memons themselves, by which that law was legislatively declared the law of the community, and individuals were authorised to take themselves out of it by a formal declaration. When I succeeded to my present office I found that nothing had been done with reference to this question since the year 1885, and I therefore considered the matter dead, and with His Excellency's permission removed the Bill from the list of legislative business pending. On receipt of the expected communication from Bombay the matter will again be taken into consideration."

LAND ACQUISITION ACT, 1870, AMENDMENT BILL.

The Hon'ble MR. WOODBURN moved that the Reports of the Select Committee on the Bill to amend the Land Acquisition Act, 1870, be taken into

consideration. He said that he had some remarks to offer on the subject, but, as he understood that his hon'ble friend Mr. Mackay wished to make some observations, he would wait for these.

The Hon'ble MR. MACKAY said:—"I beg to suggest that the consideration of the Reports of the Select Committee on the Bill to amend the Land Acquisition Act of 1870 be postponed till next cold weather. In submitting this suggestion to the consideration of Hon'ble Members I do so not because I differ from the Reports made by the Select Committee on any particular points, but because I am not aware that there is any great urgency demanding a speedy passing of the Bill, and I know that there is a certain amount of feeling that the public and those likely to be affected by the measure have not had sufficient time to give consideration to it in the present form. The Bill should, I think, be proceeded with cautiously and only after the public have had ample time to comment upon its provisions and the changes it may make in the existing law. This is the more necessary, as in taking up lands for the public good, or in the interest of the State, that interest may occasionally clash with the interest of private individuals. It is necessary that there should be a law to regulate transactions of this sort, but that law should press as lightly as possible upon those who may have to give way to public necessities. While the measure before the Council has, I am perfectly sure, received special care from the Select Committee, the public have not had sufficient opportunity of considering it in its present form. The Hon'ble Member in charge of the Bill made a statement at the meeting of the Council on the 12th of January which had the practical effect of stopping public action as regards this measure, because the Hon'ble Member mentioned that he intended to ask the Select Committee to consider an alternative draft Bill, and in these circumstances it was not considered necessary to criticise the original measure introduced by Mr. Bliss. The Report presented to the Council on the 2nd of February was a preliminary Report, and criticism of the changes it proposed was, rightly or wrongly, deferred till the final Report came out, which was not until the meeting of last Thursday; and it was some days later before the Report was published for public information. The Chamber of Commerce have written, through the Local Government, pointing out that sufficient time has not been allowed for the consideration of the proposals of the Select Committee. Members of the Chamber have addressed the Committee of the Chamber of Commerce to the same purport. Lastly, in my capacity as President of the Chamber, I have received a telegram from the Nilgiri Planters Association wanting more time. These points show, I think, that further opportunity might with advantage be given to the public to appre-

hend the scope and bearing of what is undoubtedly a most important piece of legislation—a measure as regards which it is desirable in an exceptional degree that the Government should know the views of the public of the three presidencies. I hope, therefore, that the Council will see their way to let the consideration of the Select Committee's Reports stand out till next Calcutta session."

The Hon'ble SIR PHILIP HUTCHINS said:—"It seems to me, my Lord, that this application for a postponement of the Bill is somewhat unreasonable. The publication of the Bill in January was an invitation to consider it and submit criticisms and objections so as to enable the Select Committee to amend it, if necessary, and re-present it in such a form that it could, unless it had been materially altered, be at once passed into law. Why anyone should have construed the publication of the Bill, or what fell at the time from the Hon'ble Member in charge of it, as an invitation to put it aside passes my comprehension. It is not alleged that there is any material difference between the Bill now on the table and that which was published in January. It is not alleged that anyone has any real substantial objection which he has not had time to bring forward. All that is said is that there *may be* objections; but it is equally clear that there may be none. However, I shall content myself with putting these few observations before the Council as tending to show that there is no strong ground for the adjournment asked for. The principal result of a postponement will be to continue, for another eight or ten months at least, the procedure in regard to the compulsory reference to Court and the employment of assessors, which has been, I think I may say, universally condemned. It is for the Council to say if this evil does or does not outweigh what has been represented by the Hon'ble Mr. Mackay in support of his plea for delay."

The Hon'ble MR. WOODBURN said:—"The Hon'ble Sir Philip Hutchins has said most of what I have myself to say in this matter. Any proposition that comes from the Bengal Chamber of Commerce is entitled to the respectful consideration not only of this Council but of the country at large. At the same time I find that, when the Bill introduced by Mr. Bliss last year was under discussion for eight months, the Chamber took no part whatever in that discussion and contributed no criticism on the measure. That Bill contained some very material departures from the principles of the Act of 1870. When considered by the Select Committee of this session, it was decided to revert to the lines of the Act of 1870, and in the Bill which is now before the Council that Act is maintained with the single

important exception of the abolition of the system of assessors. The abolition of that system is proposed, with the unanimous approval of all the authorities in India, official and non-official, as a cumbrous and useless procedure, the expensiveness of which presses very severely on all the parties concerned. For the rest the amendments of the existing Act which have been made by the Committee are confined to those sections which it has been proved by the experience of the last twenty-three years to be faulty and injurious. The effect, therefore, of the intervention of the Chamber at this late period of the discussion is to postpone for a year the relief to the community of the abolition of the system of assessors, and the advantage of all the improvements which have been made in the working of the Act. Had the Chamber taken exception to the principles of the measure, I should have offered no objection to a further discussion; but, in the absence of any such exception to its principles, I can only regret, in the interests of the community at large, that my hon'ble friend has thought it necessary in these circumstances to press his motion."

The Motion that the Reports of the Select Committee be taken into consideration was then put and negatived.

DISCUSSION OF THE FINANCIAL STATEMENT.

The Hon'ble DR. LETHBRIDGE said:—"My Lord, my hon'ble friend Sir David Barbour in his speech on the Budget last Thursday referred to the increase in expenditure caused by the fall in the rate of exchange, and said—

'The heavy fall in the rate of exchange has most seriously affected the position of Government servants not domiciled in India; their case cannot be put on one side much longer; and as matters now stand no remedy is possible which does not involve further increase of expenditure.'

"With Your Excellency's kind permission the representatives of the services in Calcutta had an opportunity given them of laying before Your Lordship the extreme hardship that the fall in the gold value of the rupee was causing. Your Excellency's sympathetic reply, and the knowledge that the Government of India was not indifferent to the sufferings of its European servants, and was fully aware of the dangers likely to arise from this state of affairs, has had a reassuring effect on the services.

"Within the last few days His Excellency the Governor of Madras has received a similar deputation in that Presidency, and has echoed the kindly sentiments to which Your Lordship had given expression in Calcutta.

"I would not have troubled the Council with any remarks on this important subject if I did not feel that from the position which I have for some years occupied in Bengal, and from my present position under the Government of India, I have had exceptional opportunities for observing the extent of the distress that now prevails among the European servants of Your Excellency's Government in the more remote districts of the mufassal. It is on behalf of the officers working on small salaries in the mufassal stations, often completely isolated from their countrymen and cut off from all chance of receiving sympathetic advice and assistance, that I ask the Council's indulgence for taking up its time in again referring to this subject. As an officer ordinarily residing at the head-quarters of the Government, I have, as might be expected, been the recipient of much information on this subject. It is natural that these mufassal officers should take advantage of such an opportunity for discussing their hopes and fears and the misery of their position under the present circumstances. It has often been said, and with perfect justice, that the European officers working in immediate contact with the people are the backbone of the service. On their high moral tone and the faithful discharge of their duties, often under most trying circumstances, depends the well-being of this great Empire. I have no hesitation in saying that the strain which is felt throughout the services at the present time is felt with the greatest intensity by these European servants of Your Excellency's Government. I look upon a disheartened service as a positive danger to the country, and I conceive it to be the duty of every man, even at the risk of being accused of acting from interested motives, to lose no opportunity in enlightening public opinion where such grave issues are concerned.

"I have been told on good authority that it would take more than a crore of rupees annually to compensate the services to any appreciable extent for the losses they are now incurring by the depreciation of the rupee. If this is the case, it only shows the magnitude of the burden which the European servants of Your Excellency's Government have borne and are still called upon to bear. My Lord, if the expenditure of a crore of rupees is necessary to maintain the services in a high state of efficiency and integrity, it is my honest opinion that the country should, quite apart from considerations of justice and sentiment, and as a purely business matter, unhesitatingly pay this price and take steps to obtain the necessary funds."

The Hon'ble MR. STEVENS said:—"As my hon'ble friend Dr. Lethbridge has said, on the 31st January last an important deputation, representing a very

arge number of European officers employed in India in different departments of the Government service, was permitted to explain to Your Excellency the distressing and disheartenning effect of the downward progress of exchange on their financial condition. Your Excellency listened with the most careful attention to the sad story which, in various forms, was told by members of the deputation; and the gracious reply which was accorded proved to the infinite satisfaction of all that the hard conditions, under which the services had been labouring, had long been appreciated, and that Your Excellency had been no less anxious than they that somea lleviation of their undeserved misfortunes should be found.

"Your Excellency informed the deputation that in June last year the Government had directed the attention of the Secretary of State to the distress caused to European officers by the fall in the sterling value of the rupee, and had pointed out that, if the present conditions continued, it would, in the opinion of the Government of India, be inevitably necessary to take steps for the purpose of mitigating the sufferings of its officers. The deputation was further told that in September last the Secretary of State was again addressed, and a strong opinion expressed that, unless a substantial rise in the gold value of the rupee should occur, it would be necessary to propose some measure of relief.

"At the same time it was said that it was not possible then to take this course. It was conceived that the enquiries proceeding in Europe might have results which would render relief unnecessary. A temporary measure would be inconvenient, because it would raise most difficult issues, and require the most delicate adjustment,—because it would be costly, and would disturb the whole of the financial arrangements of the year, and perhaps involve the imposition of additional taxation. All hopes of a solution of the currency problem by international agreement have been now dissipated; and the financial arrangements of the coming year are under consideration.

"My Lord, the servants of Government in India place the firmest reliance on the comforting words which were given them in answer to their complaints; they are certain that whatever remedy may be regarded by Your Excellency's Government as possible and reasonable will be applied to their case.

"In the Budget Statement which was communicated to the Council last Thursday by my hon'ble friend Sir David Barbour the subject was not forgotten; it was again admitted that the heavy fall in the rate of exchange has most seriously affected the position of Government servants not domiciled

in India, and that their case cannot be put on one side much longer. In the Estimates themselves, however, it does not appear that any provision has been made for meeting expenditure on this ground. I am given to understand that this fact has caused serious disappointment and apprehension.

"It is impossible for any one, even while regarding his own personal interests, to overlook the gravity of the difficulties which now press upon the Finance Member, and I believe that those who have borne their troubles (to use Your Excellency's gracious words) 'with dignity and patience' in the past would not now, though those troubles are becoming more and more grievous, desire to embarrass Government by asking for a definite assurance. I shall ask for none; but I venture to hope that the absence of any provision in the Budget does not necessarily imply that the consideration of remedies for the distress which has been so amply acknowledged is abandoned even for the immediate future."

The Hon'ble MR. FAZULBHAI VISHRAM said:—"In the first place, I venture to suggest that all figures representing the Budget Estimates may be given in units instead of tens of rupees, as a good many people in going over the Financial Statement are apt to mistake the latter for the former, and hence a sum of, say, ten lakhs is taken for one lakh. If it be inconvenient to adopt the suggestion, the objection might, perhaps, be met by stating at the commencement of the Financial Statement that the Budget Estimates are given in tens of rupees, but the former course will doubtless prove to be the most intelligible one.

"The next remark I have to make is with regard to the cash balance of over 15 crores of rupees with which Government expect to open the coming year. Now, is it not possible to arrange for the investment of a considerable portion of this great sum at some rate of interest? I presume, as it stands at present, it is deposited with the various Presidency Banks in current accounts carrying no interest whatever. Supposing it remains at an average of 10 crores throughout the year, and it could be arranged to earn at least 2 per cent. interest on it, it can be made to yield 20 lakhs. Bankers and merchants can of course make more than double out of it. Even Government can obtain a result of 40 lakhs by investing that portion of the cash balance in their own paper carrying interest at 4 per cent. per annum. It would be proportionately less if the balance be smaller. I see from the Statement that Government have been able in the current year to meet the increase in the pay of the British troops

partially by having invested in Government securities a larger amount of the paper currency reserve. Perhaps the same might be done with regard to, at any rate, a portion of the cash balance.

"The Hon'ble Sir David Barbour puts down the increase in the cost of army services in India (excluding pay of British troops) at ₹44,68,000. If this also be wholly or partly due to the fall in exchange, is it not practicable or possible to fix some rate of exchange for these services, as is the case with some services paid for in England? Otherwise, as the matter stands at present, the rupee pay of the civil services goes on decreasing in its gold value, and the sterling pay of the army goes on increasing in its silver value as the exchange falls!

"Then, with regard to the probable loan of 300 lakhs to be raised in India, the public, I think, would like to be informed of its duration, and the rate of interest it will carry. Government will doubtless consider the advisability of issuing it, if at all, at a most favourable time of the year, and at the rate of 3½ per cent. interest. This should also apply to the loan of £1,300,000 to be raised by the Secretary of State, and if both of these loans, aggregating as they do over 5 crores of rupees, are raised—as no doubt they can be with the high credit of Government—at 3½ per cent. instead of 4½, the difference per year would be 2½ lakhs.

"These are all the observations I have to offer on the Financial Statement, which is a most able as well as interesting document in every way."

The Hon'ble SIR GRIFFITH EVANS said:—"The Budget which has just been presented to us is at first sight an exceedingly gloomy one; but when one comes to look closer into it, notwithstanding the very grave apprehension there is as to the future of exchange, there are, as has been remarked by my hon'ble friend Sir David Barbour, some very hopeful features in it, notably the growth of the general revenues. As regards the question of exchange, there are gentlemen in this room better able to deal with the question than I am, and I will say no more about it except that it is to be hoped that some remedy will be found to introduce stability into our finances and to prevent their being the sport of parties in America, as at present. It is a very lamentable thing to be in this position that, owing to the uncertainty of exchange, it is impossible for the Government of India to take any steps to meet the deficit which appears in this Budget. That it is so there is no doubt; and the arguments of the Finance Member are perfectly unanswerable as regards the position which he has taken up.

"When one comes to look at these figures, there is one comforting matter about them, and that is this: The present deficit is produced, to the full extent, by inserting in the accounts what is called the Famine Insurance. The exact nature of the Famine Insurance was discussed very fully when the Budget was discussed in 1890, and I will, therefore, say nothing more about it than that it was fully explained at that time, and the conclusion arrived at by the Financial Member himself was that in point of fact this item of account was merely a special surplus; that the Government had found that owing to the liability of this country to famine, which liability was estimated at a cost of about Rx. 15,000,000 in ten years, it was desirable to budget for a special surplus every year of one million and a half, which was called the Famine Grant or Famine Insurance when they had got this, if they were not obliged to expend it on Famine Relief or some other great emergency, they would spend it upon productive railways, irrigation projects and other works of that kind, so as to accomplish these objects out of revenue, and so diminish the liability to famine. But if one has not got a special surplus of course it is not necessary to spend it, and in this particular instance it is to be observed that the total deficit estimated for in the year now closing is a little over a million. It is Rs. 10,80,000 if I remember rightly. This is worked out by introducing into the Budget Rx. 1,100,000 and odd for Famine Relief and by expending upon railways out of Revenue Rx. 292,000. In the estimate for 1892-93 the same thing is to be observed. When we come to examine details we find that that sum is to be expended, or has been expended, in the year now closing, on productive railways and other works. For the year 1893-94 there is a similar sum of over Rx. 1,100,000 put down for this Famine Insurance, and the estimate is that this is to be expended on productive railways and irrigation works, that is, of course, if it is there. That is the way in which the deficit is arrived at. There is also Rx. 75,000 instead of the larger sum of Rx. 292,000, which is to be expended out of Revenue on railways on the coming year of 1893-94. Adding that Rx. 75,000 to the Famine Insurance, it comes roughly to Rx. 1,200,000. Deduct that Rx. 1,200,000 from the deficit, which is roughly for the coming year estimated Rx. 1,600,000; take that Rx. 1,200,000 from the total deficit, and the real deficit is Rx. 400,000, apart from the special surplus budgeted for.

"This seems to make the Budget very much more rosy than it appears at first sight; but when you come to look into the Statement you see that there is very good reason for budgeting for this sum, even if you are not able to spend it in productive works, because the exchange is going down. The exchange

has gone down already. I am not sure how much the present drop is, but I think one may say roughly that the present fall in exchange already indicates a further liability of fifty lakhs. Therefore, although taking it at 1*s.* 2$\frac{3}{4}$*d.*, which is the rate taken in this Budget, the actual deficit, apart from the Famine Insurance and the expenditure in productive railways, would only be Rx. 400,000; yet, as a matter of fact, the probable fall in exchange is likely to bring it up at least to a million unless something is done. There is also the liability, as Sir David Barbour has said, that something will have to be done in order to meet the undoubtedly great distress amongst the services owing to the fall in the rupee. If that demand should fall upon us, it is not improbable that the actual deficit which will have to be met will be as large as has been indicated, and possibly much larger.

"The relief, therefore, that at first sight seemed to me to dawn upon one at the discovery that a great portion of the deficit was caused by this head of account, this special surplus which did not exist, that feeling of relief is dissipated when one looks at these other threatening symptoms which forebode a deficit as great or greater than has been shown.

"So much for general remarks on the nature of the deficit. The next matter which I wish to touch upon is the military expenditure. No one can feel more thoroughly than I do that the maintenance of the army in an efficient state is absolutely vital, that without it no attempts at development will be of the smallest use. All development and all civilization shatters at once unless there is protection, and protection can only be secured by an adequate defence and an adequate army. But, though this is so, one cannot help feeling that the figures of the present Budget with regard to the growth of military expenditure since 1884-85 indicate a growth which, if possible, ought to be put a stop to, especially now as we seem to approach so dark a time in the history of our finances. The figures in the Budget show that there has been an increase of something like Rx. 4,000,000 since 1884-85; that, eliminating matters connected with exchange, and things of that sort, expenditure since that period has been increasing at the rate of about 46 lakhs a year. The growth since 1890-91 is shown to be about Rx. 1,000,000, and the result is that, whereas in the estimates for the Budget for 1892-93, Rx. 21,000,000 odd was estimated for, yet when it came to the revised estimate now before us, it comes up to Rx. 23,500,000, and in the Budget for the coming year 1893-94 the Budget amount is 23 millions and a little over. This is, no doubt, a little less than the revised estimate for the last year. This is, as I understand, because there were a considerable number of ex-

peditions in the course of last year not budgeted for, and it is hoped that there will not be any next year, but whether this hope will be fulfilled must remain a matter of uncertainty. Not only is there this very heavy increase in military expenditure, but one finds that this is not the whole of the military expenditure, because one may observe that Rx. 1,100,000 is found under the head of Military Works. Also, as far as I can gather, the military railways came to about 70 lakhs for the present year, that is, somewhat less than what they have been in years past. The whole of these sums would amount to Rx. 25,000,000 or 25 crores.

"I should have observed besides that there were the special defences. As regards these it was estimated some years ago that a sum of £5,000,000 ought to be spent. I am happy to say that after the half million spent this year it appears that there will be only Rx. 490,000 to be spent in future; so we are near the end of that, and I have nothing further to say upon this question. We must assume that the money has been well spent, and that there was a necessity for these defences; we may hope that the necessity will now cease and that there will be no further requirement for expenditure under that special head. As regards the main question of military expenditure, it is generally felt that there has been a great improvement in the army within the last few years, that there has been a great deal of money well and wisely spent, and that there has been a great deal to show for it during the time Lord Roberts has been Commander-in-Chief. Notwithstanding that that is so, one cannot help a feeling of alarm that the expenditure is still rising and rising. One knows that with enthusiastic soldiers their desire to get a perfect army will, unless it is kept in check by considerations of ways and means, continually tend to require more and more money, and therefore it is necessary, when times are bad and the revenue is getting short, to desist sometimes from expenditure which, if we were able to afford it, would, perhaps, be beneficial. So, too, with regard to expeditions. We all know that situated as we are, with a great many parts of our frontier surrounded by wild and savage tribes, that expeditions must from time to time be forced upon us. But, on the other hand, it is equally to be remembered that these tribes are most of them wanting in cohesion, split up as they are by tribal jealousies, and a great deal may be done, as has been done in times past, by having strong district officers who are accustomed to deal with these wild and semi-savage tribes, who have gained a personal ascendancy over them; and that with such officers, together with the military outposts that are scattered along the frontiers, it has often been found possible to keep the peace fairly, to restrain these tribes, and to prevent such a

state of things arising as to necessitate an expedition. We cannot expect that on the frontier we can have the same absolute security from violence and robbery as in other more civilized parts of the Empire. These district officers are in the position of 'Lords of the Marches,' and when our finances are, as they are now, at a very low ebb, great efforts ought to be made to instruct the Lords of the Marches, so to speak, that they are, so far as they can, to keep the peace, to keep things quiet on their frontier, and not to requisition extra troops if it can possibly be avoided. There is no doubt that with an army well equipped and ready for action there will be constantly a desire on the part of strong officers to get up expeditions and to give the frontier tribes a lesson which will last. This is all very well suppose one is able to afford such a luxury. But it is not always that the conduct of the tribes is such as to render it a necessity. I am not in a position to criticise the various expeditions which have been made. I am only giving expression to a feeling which exists among people, whose opinion is more valuable than mine, that it is possible to do something to prevent these expeditions. Although we may at any time be driven to them, it is desirable that a strong curb should be put upon the tendency to come down upon these tribes, that that tendency should be restrained, at any rate while our finances are in their present condition. That this is a difficult task with our extensive and distant frontier is quite recognised.

"The general gist of my remarks is simply that great efforts should be made to curtail any expenditure on military account which is not absolutely necessary, and to prevent any expeditions which are not absolutely necessary. The reason why I make these remarks particularly is that I see how very much the Budget Estimates of last year were altered by expeditions, and one cannot help feeling that the same thing may happen again. I observe also that the tendency we have lately exhibited to enlarge our borders and push our advance posts further up is already beginning to be a source of expense in the Budget, for I see that there is a sum of Rs. 78,000 for transport for the Gilgit Force, and it may be the case that we may find Chilas and other places figuring in the next Revised Estimate. All I wish to say is that at such a time as the present every effort should be made to prevent money from disappearing in these expeditions. Many of them, as a matter of fact, yield no permanent result at all, although it may at first sight appear that they really do. When you coerce or subdue one tribe it generally happens that you have got into the neighbourhood of another tribe worse than the first, and that there is yet another tribe at the back of that; therefore it is rather like throwing the money away except in those cases in which action has been forced upon us. I should not have made these remarks had it

not been that, in view of the exceeding difficulty of the time which is before us, all efforts at economy should be made, and that this item of military expenditure, though necessarily very large, is one in which apparently it is most possible that a large saving can be effected in future. At any rate, its tendency to expand can be kept in check.

"The next point upon which I wish to touch is the Home charges. There has been no doubt a good deal of talk about the Home charges as if they were things that could be avoided; that is, of course, an entire fallacy. There is a certain amount of money which must be expended in England. So long as we purchase our stores there, there must be a large amount of expenditure on these stores; and, unless it can be shown that advantage would be derived by getting them in India, the purchase must be made there. The stores must be had, and, whether the money is spent here or there, they have to be got and paid for. Besides there are pensions. When we come to look at the large sum of the Secretary of State's drawings—£18,700,000 for the present year—one finds that there is no real abnormal difference in the Home expenditure, but that the difference is made up of casual charges, that is to say, having to repay money and purchase stores for railways, and various other things which really do not in any way indicate an increase of expenditure. There is no real difference, practically speaking, in the expenditure in England, which comes to something like 15 or 16 millions, and the rest of the £18,700,000 is only inconvenient inasmuch as that so large a drawing will tend to depress the exchange, but it does not indicate any increase of expenditure on the part of the Government.

"Out of the 15 or 16 millions spent at Home one notes certain charges which are tolerably fixed. There is about £5,600,000 for Railways, £2,600,000 for interest on debt, £4,500,000 for the Army, £1,700,000 for pensions, making altogether about £14,000,000. The rest is made up of smaller sums which are more or less irreducible. I therefore do not see any likelihood of securing any large reduction of the Home charges, but there may be many points in which we may save to a certain extent, and one or two of those I will now indicate. First of all, I would observe that there is a tendency on the part of the various departments in England to shove everything they can on India. The safeguard is supposed to be the Secretary of State. As stated recently in a debate in another place, the Secretary of State is supposed to be the guardian of the finances of India; but, so far as I have been able to see from the way things go, and if report speaks true, the Government of India have constantly to fight the Secretary of State over the finances of the country. Whether that is the case

still I am not able to say; it may or may not be the case; but certainly it was so in former days, and it is said to be still going on. Unfortunately, however, the Government of India have no power to get their remonstrances attended to, and, although they may have in some cases succeeded, as far as I can gather, most of their remonstrances were pigeon-holed. Besides they are not made public unless they should chance to be called for by Parliament. It is much to be regretted that there is not some way by which, when charges are sought to be placed on India, the Indian public can be informed of them before they become irrevocable. As it is now, we do not get the accounts of the Secretary of State until they are presented to Parliament in May, and the last one, as far as I know, that is accessible is the statement of accounts which was printed by order of the House of Commons on the 13th May, 1892. This contains the accounts of 1891-92 and the estimates for 1892-93; but, if there were some means by which the Financial Member could inform the Council in the Budgets in future of any charge which had been ordered or proposed by the India Office to be placed on the finances of India, it might be that, although this Council has not the power to do anything except grumble—I mean the legislative portion of it—it might, I say, be that their representations would strengthen the hands of the Government of India in that fight which it has often, so far as I understand, in former times had to carry on in defence of the finances of this country.

"There are two things which have struck me in this account of May, 1892. I find that there is a sum of £7,000 put down for the Persian Consulate, a Mission to the Court of Persia. At first it was £10,000, and was afterwards reduced to £7,000. I understand that we do contribute to or keep up an Agency at Meshed; but, if we are called upon to contribute towards the main Mission at Teheran, it is difficult to say where one is to stop and why one should not do the same with regard to Turkey or any other Asiatic Power. The next item is with regard to Her Majesty's establishments in China, for which a sum of £15,000 is set down; this was ultimately reduced to £12,000. The note of the Auditor is that an agreement has been come to for ten years. At first I thought that Her Majesty's establishment at China really might mean nothing more than that we were contributing on account of this Chinese Mission, which is going on now and which is concerned with the Indo-Thibetan frontier dispute, and which, of course, is a very legitimate object; but, when I find that it is agreed upon for ten years from the 1st of April, 1890, one sees that it cannot be that, and what it can be or why we should pay for it I fail to understand. The £12,000 for Her Majesty's establishment at China does not seem to be a charge which ought to be borne by the revenues

of India. However, I merely suggest this that the people who pay the money, if they were entitled yearly to have such expenditure placed before them and to make their remarks and criticisms upon the expenditure ought to have these matters laid before them in time to offer their criticisms and remarks before the expenditure becomes irrevocable. Of course, the object of discussion here is that whatever we say may not only be a relief to our own feelings, but may attract some attention from the people who have to decide these matters.

"The next thing I have to observe is that the India Office expenses, when one comes to look at them, appear to be on a somewhat lavish scale. The total expenditure upon salaries, wages and allowances amount to £151,000. One sees that if you take the whole of the expenses they come to over £191,000. The total increase in the last year is put down at £3,147. When you come to look at that you find that there has been an increase of £5,000 and a decrease of £2,800, but, when you come to see where the decrease and increase are made, you find that the increase is in the permanent charges, and that the decrease was in the occasional charges. The decrease has been in the postage of despatches to and from India. In the accounts of 1891-92 there is £4,000 under this head. In the estimate for 1892-93 there is only £1,200. Whether the Secretary of State will be able to reduce either the bulk or the cost of his despatches to this extent we must wait to see. If you take that out, there has been an increase to the permanent charges of over £5,000. There is a tendency generally on the part of this establishment to increase; but, when one comes to look into the establishment itself, one is struck by a number of small things indicating very clearly that there is no strong hand there to curb or keep down expenditure. I will instance a few to the Council. I will not say anything about the salaries of the Secretary of State and the Members of the India Council. They only come to £25,000 a year and are not excessive; but after paying this we come to the Correspondence Department, which costs £32,000, and we find six Secretaries on £1,200, and six assistant Secretaries on from £800 to £1,000 a year. Then I find this item: Special Assistant and Visitor to the Indian Museum at £800 a year. I am at a loss to understand the nature of this gentleman's duties, but I find that he requires, or did require, for the performance of them a clerk at £400 a year. But that is not enough. The Visitor is apparently short of technical knowledge, and so he has a special technical assistant at £350 a year. Then we come to the general clerks in the Correspondence Department, and we find 11 senior clerks; then we find 6 redundant senior clerks. Now, I have

no idea what a redundant clerk may mean, but the term certainly suggests something in the nature of a luxury. Then I find a number of junior clerks and a large number of other assistant clerks, so that there are altogether 49 persons engaged in this Correspondence Department of the India Office. Then you find that they apparently all receive personal allowances of one kind or another, in addition to what seem good salaries. Some of the allowances are very extraordinary. You find that some of these clerks receive allowances for editing the India List. One receives £70 a year; another £50 for the same thing; another a similar allowance, and who edits the India List I really cannot make out. Then I find that another official is a second class clerk of the third grade, and he is not only one of the persons who receives an allowance for editing the India List, but he also receives £50 for the preparation of a Sanitary Blue Book. Then in the Registration and Record Department there is another clerk, one also of the second grade, attached to the Record Department, who also receives £50 for editing the same India List. This peculiarity of always receiving extra remuneration for doing anything becomes more marked, I observe, as we go down the List. Then I come to another class of persons, the office-keepers and messengers, and it appears that £6,230 are spent upon this class of officials. We find that these messengers are of the first and second class, and receive the following allowances, which are instructive, besides their salaries of £100 a year: three receive £30 each for attendance on the Secretary of State. I apprehend that there would be considerable astonishment if any of the chuprassis here were to demand extra pay for attending, for instance, upon the Viceroy or upon any of the Members of Council. One would think that that was all in the day's work. Then there are a number of other similar allowances, amongst which I find that one receives £30 for despatching and posting letters, as if this could not be done without extra pay. Another receives an allowance for superintending the delivery of coals.

"But I will not weary the Council by going into any more details; but I do say that the perusal of this report seems to indicate to a certain extent that, if there were something in the nature of a Finance Commission with a view to retrenchment in these matters, the results, if not very large, would at any rate be considerable. One has a general impression, on perusing these papers, that the employés in question are very lightly worked, and that they seem to be always wanting extra pay for anything additional that they do. I observe also that the Store Department costs £40,000 a year, and whether the Store Department is worth that expenditure I am not able to form an opinion. All that I can ask for is that the money applied to these various purposes should be judiciously spent and should not be wasted.

"There is only one thing more I desire to say. In 1890, when the Budget was last discussed, I made some observations with regard to the taxation of justice, and I then suggested that there ought to be some alteration in the taxation of justice, because Bengal, upon the figures then available, paid 14 lakhs more than was required to cover the whole of the cost of justice in Bengal, and that those 14 lakhs went into the general revenues. I therefore suggested that the taxation should be reduced, or that the money should be spent upon the improvement of the administration of justice. I do not propose to repeat that suggestion now in the face of a deficit, but in going into the question on that occasion I pointed out the very grave complaints made with regard to the insufficient number of Munsiffs and the want of accommodation as regards cucherries, and so on, and suggested that although that was the part of the Provincial Government to provide, yet that the Provincial Government could not provide it without money, and that the Imperial Exchequer ought to allow them funds for these things out of the excess taxation of justice. At that time the answer of the Hon'ble Sir Philip Hutchins was that, as a matter of fact, considerable changes were being made and reports were coming in, that the matter was being consulted upon between the Home Department and the High Court; and that there would be a considerable amount of alteration for the better. I have reason to believe that there has been considerable alteration for the better, but at that time the matter was still in progress and the settlement of the complaints put forward by the High Court had not been finally dealt with. I believe that they have been finally dealt with since, but I am not in a position to know the result. If the Hon'ble Member or the Lieutenant-Governor could inform me of what was the end of them, I should be glad, although I do not know that I have any actual right to ask the question.

"These, My Lord, are the observations I have to make, and I wish to add that I am entirely sensible that as regards the Indian administration of the finances of India there has been throughout an earnest endeavour to administer them for the real benefit of India. My criticism is made in no hostile spirit and with no suggestion that there has been any other than an undivided endeavour to administer the revenue for the best interests of the country; it has been made with regard to various matters in which there seemed to be a possibility either of retrenchment or improvement."

The Hon'ble MR. CHENTSAL RAO said:—"I have only a very few remarks to make in connection with the Budget.

"Although in the present unsettled condition of our finances it is not proper that I should say anything which may have the appearance of suggesting a diminution, however slight, of the resources of the Government of India, still

there are one or two points which on principle seem to require early consideration, and I venture to notice them now, as I may not have another opportunity of doing so, and as I hope that the Government of India may be able to give consideration to my suggestions as soon as the question of exchange is settled, which I hope it will be ere long.

"I observe that, during the last five years ending 1891-92 for which accounts are available, the Registration Department has yielded an annual average surplus of 1½ millions of rupees, which is divided equally between Imperial and Provincial. As the object of the Registration Department is not revenue, it seems to me that the appropriation of the receipts of the Department for general purposes is questionable. I do not, however, think that the registration fees need be reduced as they are sufficiently light, but more registration offices may with advantage be created, so that people may not have long distances to travel to get their documents registered. The present charges of registration officers are extensive, at any rate they are so in Madras, and the creation of more offices will be highly appreciated. The Registration Department is indeed a great check upon forgeries, and it is so popular and so much appreciated that in my humble opinion the registration of all documents relating to real property may be made compulsory; such a measure will have the additional advantage of checking the large mass of litigation arising out of questions of priority between registered and unregistered documents affecting the same real property.

	Receipts. Rs.	Expenditure. Rs.	Surplus. Rs.
1887-88	31,12,530	18,72,000	12,40,530
1888-89	33,17,120	19,36,810	13,80,310
1889-90	35,37,920	19,32,370	16,05,550
1890-91	36,54,490	19,67,310	16,87,180
1891-92	39,98,020	20,75,630	19,19,390
Average			15,66,592

"A sum of 15 millions of rupees is now annually set apart for famine relief. I do not know how this sum came to be determined upon, but I observe that, ever since the Famine Fund has been started, the cost has in no year exceeded 31 lakhs, and the average cost, including the interest charge of 34 lakhs on the Indian Midland and the Bengal-Nagpur Railway debited to the Famine Insurance Fund, is only Rs. 39,00,000 a year. I think the country has now, by the construction of protective works—railways and irrigation—been sufficiently insured against the recurrence of famine in anything like the degree of intensity of the famines on which the average annual cost was assessed at a

	Rs.
1878-79	31,35,470
1879-80	10,40,590
1880-81	3,48,400
1881-82	3,48,830
1882-83	2,21,030
1883-84	92,050
1884-85	73,500
1885-86	4,06,950
1886-87	10,410
1887-88	4,020
1888-89	77,990
1889-90	6,82,880
1890-91	55,790
1891-92	2,34,230
1892-93	7,68,000
Total	75,00,140
Average	5,00,009
Add interest charge on Midland and Bengal-Nagpur Railway as per Budget of 1893-94	34,02,676
Total	39,02,685

crore and a half, and that the allotment may now therefore well be revised. It seems to me that, making every allowance for increased charges in future, a provision of 75 lakhs of rupees for Famine Insurance is enough, and the remaining 75 lakhs may be appropriated for general purposes with a corresponding remission of questionable taxes. The export-duty on rice is virtually a tax on the agriculturists, who already pay a heavy assessment on the lands which yield the produce. It is a questionable tax, and may well be abolished. The average net revenue from the duty in the last five years has been just 76 lakhs, only one lakh more than the sum which can be spared from the Famine Insurance Fund. I say it is a tax on the producers, because India is not the only country which exports rice, and it is also very unequal in its incidence, as the duty is collected on quantity instead of on value, though the prices of different qualities of rice vary very largely. It may be said that there will not be enough of money for protective works if the Famine grant is reduced to 75 lakhs, but I think that these must be undertaken from borrowed capital, as they benefit not only the present but also the future generation. Interest on the capital so spent seems to me to be the only legitimate charge upon the Famine Insurance Fund.

"I observe that the charges under Stamps, Assessed Taxes and Excise, though not very heavy in the aggregate, vary largely in the several provinces, as shown below, the figures being those taken from the Budget for 1892-93. The Police charges, which are almost entirely Provincial and on which, perhaps, I may not be at liberty to say anything here, also vary very largely. For instance, Bombay with a population of 21½ millions costs 57 lakhs, while Bengal, with 71 millions or nearly 3½ times of the Bombay population, costs only 58 lakhs. I do not allude to these variations because I know for certain that any avoidable expenditure is incurred anywhere. The variations are probably due to local peculiarities, but I thought an explanation of the causes would remove misconceptions on the subject.

Percentage of charges to receipts.

	Excise.	Stamps.	Assessed taxes.
Central Provinces	1·6	2 6	·2
Burma	1·4	2·9	3·5
Assam	·3	4·4	·9
Bengal	6·2	3·8	4·4
North-Western Provinces . . .	2·8	2·1	·8
Punjab	2·9	4·6	1
Madras	5·4	3·8	·9
Bombay	3·6	4·2	1·4

"I observe that under superannuation allowances the charges in 1892-93 and 1893-94, exclusive of the cost on account of exchange, is about 24, or 21 lakhs above the average cost of the previous four years. Although this is an item under which any retrenchment is impossible, still, as it is an item which should vary within narrow limits, I shall be glad to know the cause for the increase. There is also a similar increase under Furlough Allowances, but it is not large.

	Total cost.	Deduct exchange.	Remainder.
	Rs.	Rs.	Rs.
1888-89	3,11,48,230	75,01,290	2,36,36,940
1889-90	3,14,03,610	72,93,860	2,41,09,750
1890-91	3,05,15,410	54,81,030	2,50,34,380
1891-92	3,32,41,090	74,95,570	2,57,45,520
	Average		2,46,31,647
1892-93	3,80,15,000	1,09,81,000	2,70,34,000
1893-94	3,78,93,000	1,11,80,000	2,67,13,000

"I am unable to find out what sum has been provided in the Budget for advances under the Land Improvement Loans Act, but, considering the large reduction in the cash balances at the end of 1893-94, I feel unable to suggest any increased provision under the general head 'Advances' in 1893-94; but I must say that the advances made under the Land Improvement Loans Act in the several provinces during the last five years appear to me to be too small when the needs of the country and the amount of surplus revenue obtained during the last twelve years are considered, and I hope that the Government of India may be able to see their way to increase the provision. In India there is nothing so well calculated to mitigate the effects of ordinary droughts as the excavation of wells and the use of sub-soil water. The present obstacles to the utilization of the Act are—

(1) the ignorance of the raiyats even of the existence of the Act;

(2) the dilatory procedure adopted in granting the loans;

(3) the rigidity with which repayment is enforced.

"The last is the chief obstacle. The Government of Madras have made excellent rules for the repayment of loans by very small annual instalments, and they are working well; but I submit for the consideration of the Government of India whether, in cases where the raiyats prefer it, the time for the repayment of the loan cannot altogether be left to their option, the payment of interest alone along with the assessment being made compulsory, at least in the case of money advanced for wells. Formerly, lands under wells paid as much as seven and ten rupees per acre, even where the wells were excavated at the expense of the raiyats. But now, owing to the liberal policy of Government, they pay only the assessment which the land bore before the well was excavated, *i.e.*, one or two rupees an acre; and, if money be advanced to them at 4 per cent. to enable them to ex-

cavate wells, they would be glad to pay an addition of three or four rupees an acre more. Ordinarily in Madras a well excavated at a cost of, say, Rs. 300 can irrigate three or four acres, and its interest comes only to three or four rupees an acre. This can with perfect ease be always realized, and, when this could be done, I do not see why the time of repayment should not be left to the option of the raiyat. As regards the ignorance of the raiyats and the delay in obtaining loans, the appointment of a special officer in each province for a year or two to travel and make advances on the spot will remove the obstacle, and this measure is being tried in Mysore with much success."

The Hon'ble DR. RASHBEHARY GHOSE said :—"Every one must sympathise with the European servants of the Crown in India in their present difficulties, which it is to be hoped are only of a temporary nature. But, while fully acknowledging the magnitude of the burden which the European servants of the Government of India are called upon to bear, we cannot altogether shut our eyes to the state of our Exchequer or to the magnitude of the burden which would be imposed on the tax-payer by the suggested addition of a crore of rupees to the estimates. It must also be borne in mind that the Government is in the position of a trustee of the public money, and that it cannot in the present critical condition of the finances be fairly called upon to be generous to any class of its servants at the expense of the taxpayer, the *cestui que trust*, so to speak, whose interests have to be carefully watched and protected."

The Hon'ble MR. MACKAY said :—"My Lord, it is to be regretted that the first Budget Statement submitted to this Council under the rules lately introduced by Your Excellency should, by the force of unfortunate circumstances, so far as many points are concerned, be little more than a temporary document. This being so, it would serve no good end to occupy the time of Hon'ble Members by entering upon a discussion of items of projected ways and means which from the nature of things can be regarded, in a great measure, only as tentative figures.

"Apart from the question of ways and means, however, the submission of the Budget has been accorded a special and peculiar interest owing to the eloquent, comprehensive, lucid and exceedingly impressive speech with which it was introduced, and the situation explained, by the Hon'ble Sir David Barbour. It was impossible to listen to the Hon'ble Member as he addressed this Council a week ago without being more than ever convinced that the country has been fortunate indeed in having had at her financial helm, during the past five years, a man with the matured judgment, experience and caution of the Hon'ble Sir

David Barbour, and I believe all Hon'ble Members must have felt—as I did when he alluded to the fact that this would be the last statement which he would lay before this Council,—that it is an unqualified misfortune that he should be leaving the country so soon, just at this critical juncture, when we are more than ever in need of his guiding hand.

"The public, as the Hon'ble Sir David Barbour said, were prepared for the two serious deficits which he announced, but I venture to think they were scarcely prepared to find that the Government would not be in a position to frame its Budget for the coming year in a manner which would meet these deficits and prevent their recurrence.

"It is a great disappointment to find that ten months have passed since the proposed change of standard was pressed upon the Government of India and upon the Secretary of State, and that the question still remains unsettled, thereby further impairing the Indian Exchequer and doing nothing to alleviate the anxiety of the public.

"I gather from the general tenor of the Budget and from the preceding Budgets produced by the Hon'ble Member that there is now in reality only one permanent and grave cause for anxiety in connection with the Indian finances, that cause being the fall in the gold value of silver. Of the four uncertain factors which have hitherto affected the finances, three may be said to have been practically eliminated. War is still doubtless a contingency which may any day become a certainty, but the effective, though costly, measures for the increase and efficiency of the army, which have been taken since 1885, have to a great extent ensured the country against a calamitous reverse, and it is certain that if war overtook us, though the strain might for a time be severe, it would be nothing more than temporary in its effects.

"Against famine we have also now been insured to such an extent, by the spread of railways and canals, that we may fairly dismiss from our minds the apprehension that we shall see anything approaching in intensity, and difficulty of relief, the famines which used to overtake the country down to the year 1878.

"The third uncertain factor, opium, has now taken what may be called a subsidiary place in the revenue sources of the Empire; the net revenue has fallen since 1881 from nearly 8½ crores to 5 crores—a decline of something like 40 per cent., and it must be recognised that the time is not far distant when the revenue will be still further reduced. Meanwhile, with the decline of the opium revenue

the fluctuations are of less importance in the point of view of the Budget than they were when it formed a very much larger proportion of the total revenue of the State.

"But, while these three uncertain factors have lost very much of the importance which they once possessed, the advantage which would have resulted to the Indian finances has been more than neutralized by the fourth factor, of loss by exchange, which, small in the beginning, has gradually grown larger, until now it is, as Sir David Barbour says, a dominating factor in the finances of the country.

"It is manifestly impossible to set our house in order, impossible to produce a Budget which will reasonably approach to accuracy, as long as this disturbing element is allowed to override and swallow up every provision made for the necessities of the State.

"Sir David Barbour still holds the opinion that the best solution of the currency question would be found in an international agreement for the use of both gold and silver as full legal tender, and I think no one will be found to deny that, from an Indian point of view at any rate, this would undoubtedly be the best remedy. But it is vain and futile now to cling to the hope that such an agreement will be made for at least a generation to come, and I gather it is the opinion of Sir David Barbour that it would be unwise to further defer action for the regulation of our currency system till such time as bimetallism will solve the problem.

"The recent Conference at Brussels showed that several nations were opposed unconditionally to the restoration of silver to its ancient position of full legal tender, and that others who were inclined to the restoration of silver absolutely refused to move unless Great Britain gave the lead and went the whole way with them. Early this month the discussion and division in the House of Commons proved that Great Britain would do nothing of the kind, and we have therefore before us three facts: first, that several nations will under no circumstances join the agreement at all; second, that other nations will do so only on condition of Great Britain adhering in full to the agreement; third, that Great Britain positively declines to join in any agreement whatever which would be acceptable to the other nations. Under these circumstances we must regard the question of international agreement as altogether outside the sphere of practical politics and must make up our minds to do as all other civilized nations have done, that is, take independent action. Let us look, My Lord, at the position into which we have drifted solely owing to our silver standard. We are obliged

to curtail expenditure on useful public works. We are literally starving the servants of the Government, and thereby impairing the efficiency of the administration, and we are casting about for new sources of revenue at a time when we ought rather to be engaged in discussing the repeal of unnecessary taxation. The country has now been free from any great calamity for the past twelve or thirteen years, the revenue continues to increase, and yet expenditure increases in a far greater ratio, and we are unable to make both ends meet, simply because we choose to retain as a standard of value a metal which has now been discarded as a standard by practically the whole civilised world.

"I remember a few months ago it was argued, in reply to the suggestion that India should change her standard, that Russia was a factor, and that she would benefit in her competition with Indian wheat if India changed to gold. Within the last few days, however, Russia herself has closed her mints to the free coinage of silver and has placed the rouble on a gold basis. And, speaking of wheat export, it may be within the recollection of Hon'ble Members that considerable stress was laid upon the supposed advantage which India gained through her silver standard in selling her wheat in the markets of Europe. I freely admit that at first sight the condition of things twelve months ago was calculated to give the impression that the low rate of exchange which ruled in 1891 must have had something to do with the unprecedented export of 1,500,000 tons of wheat which marked that year. In the year just ended, however, we have had lower exchange, lower freights and probably as much wheat available for export as in 1891, and our shipments have fallen off by almost one-half. The theory that low exchange stimulates exports has, I believe, now been generally abandoned, and a study of the wheat export statistics, combined with ruling rates of exchange for a number of years past, including 1892, will, I believe, have the effect of finally discrediting the mischievous theory.

"It has been urged that the proper course for India is to remain a silver country and to go on re-adjusting her fiscal system till silver finds its natural level. But, My Lord, there would seem to be no natural level for silver. In 1891 we had an outturn of 144,463,000 ounces, while in 1892, with a much lower price than that which ruled the previous year, we have had an output of 152,119,000 ounces. Those who told us a year ago that the low price then prevailing would speedily curtail production are now forced to admit, as even the *Economist* does, in its issue of 4th March received by yesterday's mail, that the fall in price has had the effect of stimulating production.

"The only mints in the world now open to the free coinage of silver are those of Mexico and India. As regards Mexico, the silver coined there is the

product of the country, and the coining is practically the stamping of a trade-mark on pieces of silver to admit of their exportation to China and Eastern Asia. We, on the other hand, allow every producer of silver in the world to throw his production into this country, and we coin it into rupees with which we are obliged to meet our gold obligations, though the rupees are every day declining in their gold value. We refuse to receive gold at our mints, and we hesitate to adopt a gold standard—a position which is as illogical as it is untenable, and I sincerely trust that it may soon be terminated.

"Sir David Barbour says that at this juncture the proper course is to await the decision of the Home authorities on the currency question before adopting measures which must necessarily be of a stringent and exceptional nature with the object of re-establishing an equilibrium between revenue and expenditure, requiring the imposition of heavy taxation or a large reduction of expenditure, or even both, and he hopes that the Indian public will acknowledge the difficulties of the present position, and will not press for a hasty decision or the inconsiderate adoption of measures which must from the very nature of the case prove to be either inadequate or unnecessary. I feel perfectly sure that the Indian public will fall in with the wishes of the Hon'ble Member, at any rate so far as not to press for the imposition of additional taxation. But I do not feel so confident that the country will be inclined to accept the decision of Lord Herschell's Committee without demur, should it be against us and should it involve us in further overwhelming imposts.

"Sir David Barbour, I observe, has confidence in the resources of the country and in the industry of its people, and, while he admits that the task of establishing, securing and maintaining the integrity of the financial position of India in the event of our continuing on a silver basis may be a heavy one, he considers it will be our plain and obvious duty to address ourselves as best we may to fulfilling the task. Now, My Lord, I have, like Sir David Barbour, great confidence in the resources of the country and in the industry of the people. I should be perfectly willing to bear my share of burdens imposed in view of real emergency and for the common weal; the emergency, however, which is staring us in the face is not a real one but is of our own creation, and the crippling of our resources and the grinding of our industry by taxation will not remove the evil. The evil will present itself again with every further decline in the rupee, and the operations of crippling and grinding will have to be repeated indefinitely. I do not think the country will calmly consent to taxation which will be applied to no useful purpose and which will be as great a loss to the people as if the money extracted from them were taken out to sea in one of my steamers and cast into the Bay of Bengal.

"It would have been interesting if Sir David Barbour could have given us some indication of the resources and industries to which the fresh taxation can be applied—taxation to yield, say, an additional ten crores of rupees. It seems to me that, if we decide to continue on a silver basis, and England decides to retain us as a dependency, before many years are over one-half of our population will be engaged in the occupation of collecting taxes for the State, while the time and intelligence of the other half will be devoted to devising means to avoid the payment. I believe I shall not be without the mark if I say that those who watch the progress of affairs in India most attentively are fast coming to the conclusion that the depreciation in the value of the Indian currency is beginning to press with serious effect upon the poorer classes of the population, and this is a phase of the question which should not be longer disregarded, but should attract the gravest attention of the Government not only in this country but in England. If, therefore, it should unfortunately happen that Lord Herschell's Committee and the Secretary of State are not inclined to permit this country to adopt the much-needed reform of her standard so as to bring herself within the pale of civilization, I trust that the Government of India will insist on being furnished with the fullest and most cogent reasons for inaction, and that they will not quietly accept the verdict, if it be against their own convictions, but that they will continue to press upon the Secretary of State the fact that this country can never hope to settle down to a period of assured internal peace and financial prosperity, nor can her resources be properly developed, until such time as she has secured a standard of value which is common to that of England."

The Hon'ble LIEUTENANT-GENERAL BRACKENBURY said:—"The Hon'ble Sir Griffith Evans has called attention to our military expenditure in terms to which I for one can take no exception. The Government of India should, and does, welcome such friendly criticism of its acts, and I am the more glad that he has made those remarks in Council, because I am thus afforded an opportunity of making a few observations which, I venture to hope, may remove from his mind and from the minds of others some of the misapprehensions which now exist as to what is called the constant growth of military expenditure.

"In the first place, I would wish to say that the Government of India are not running blindly on in this matter. We have given the very closest attention to military expenditure; and for many months past our Accountant General has been engaged in the preparation of an analysis of military expenditure for the last ten years, which we are sending Home to the Secretary of State, and in regard to which we have undertaken still further investigation.

"The opinions of my hon'ble friend and others as to this great growth of military expenditure are based upon the figures contained in the Financial Statement. These, I should like to point out, are gross figures; and gross figures are apt to be somewhat misleading when taken by themselves. In many items of our military expenditure our receipts rise almost exactly in proportion to the outlay which appears in the Estimates of gross expenditure on those items. But, without going into any lengthened exposition of figures, I may state that there are more than 71 lakhs of receipts to be set against the gross expenditure shown as to be incurred in India for 1893-94 in the Financial Statement, and I think it will be more convenient if I deal with net figures in connection with what I am about to say.

"Now, I have before me a table prepared in the Financial Department, and vouched for by the signature of my hon'ble friend Sir David Barbour, which gives the net army expenditure in India for the past ten years, commencing with the year 1884-85. That year has been chosen because it was the year when the military expenditure touched its lowest figure after the Afghan War. I find that there was between that year and the following year (1885-86) a leap of more than three crores in the military expenditure. The causes which occasioned that rise in military expenditure between 1884-85 and 1885-86 are familiar to every one in this Council, and it is scarcely necessary that I should refer to them. Since that date of 1884-85 the army in India has been increased by more than 11,000 British soldiers and 19,000 Native soldiers, and measures have been taken to render the army of India fit to take the field without delay on any emergency that might arise. From 1885-86 military expenditure has been constantly higher than it was before that date. But, since that great leap took place between 1884-85 and 1885-86, I contend that there has been no constant or great rise in military expenditure in India except such as has been brought about by a falling rate in exchange, and I think I can prove this by a very simple statement.

"In 1885-86 the amount of net army expenditure brought into account in India was Rx. 14,361,000. In the year 1893-94 the Budget Estimate is Rx. 14,981,000. The difference between the net military expenditure in India between 1885-86 and 1893-94 is therefore 62 lakhs of rupees, and, of these 62 lakhs, 57⅓ lakhs are due to the fall in exchange, the actual increase apart from that item of exchange being 4⅔ lakhs of rupees.

"Exchange in 1885-86 stood at 1*s.* 7⅛*d.*, while this year it has been taken 1*s.* 2¾*d.* Every farthing of difference in exchange makes a difference of 3 lakhs of

rupees in the military estimates for the pay of the British soldier. There have been fluctuations between 1885-86 and 1893-94, and those fluctuations, I think it may fairly be said, have been chiefly due to expeditions. It is not for me to say much upon the subject of these expeditions. They are not due to the action of the Member of Council who is at the head of the Military Department; they are due to the action of the Governor General in Council; but I would like to make this one remark. I was reading a few days ago, in the French Official Journal, a debate in the French Chamber on their own colonial policy. A member of the Opposition, attacking the policy in Tonquin, said :—

'There are two Tonquins, the Tonquin of the plains and the Tonquin of the hills; and my contention is that we should administer the Tonquin of the plains and let the Tonquin of the hills alone.'

"The answer made to him by the Minister for the Colonies was this. He said :—

'Tonquin is like one of those luscious tropical fruits of which you cannot enjoy the juice until you have broken the rind.'

"I venture to think that that simile applies forcibly to India. That rind extends from the frontier of Baluchistan to the Burmese frontiers of China and Siam.

"The Hon'ble Sir Griffith Evans has acknowledged, as has the Hon'ble Mr. Mackay, the good work done in connection with improvements in the army. I think both these hon'ble gentlemen were present recently when the Commander-in-Chief in his speech at the public dinner given to him in Calcutta explained and stated how much had been done in recent years for the army in India. He spoke of the reduced death-rate of the British troops, which has come down from 69 to 15 in the 1,000, owing to improved sanitary arrangements; of the reduced amount of drunkenness and of the crime resulting from it; he spoke of the improved shooting of the British army in India, and of the Indian army, saying, with perfect truth, that the army in India is now absolutely second to none in this respect; and I trust that those who criticise military expenditure will not forget that Lord Roberts, in making that speech, said clearly that it was due to the wise liberality of the Government of India that these great improvements had been made.

"There is one cause—I will not say of increase of expenditure, as of our expenditure not going lower than it is—in which I feel perfectly certain I shall have the sympathy of every one here, and that is that we have been making

great efforts to render India as independent of England as possible. We are now manufacturing in India clothing and boots for the whole army of India, which were formerly made at home; we are making ammunition for the army; we have introduced the manufacture of steel for the projectiles of our heavy guns; and we hope shortly to introduce the manufacture of cordite, the new smokeless powder, for which we are at present dependent on England. I need not say that all this means money spent in India instead of in England, and that it adds to the expenditure shown in the Indian Estimates; but it will undoubtedly, in the near future, cause not only a corresponding, but a greater, decrease in the Home Estimates, because it has been distinctly shown that we can manufacture in this country, bringing the capital afforded by the State to the cheap labour of the East, much more cheaply than the same articles can be manufactured in England.

"In regard to military works, I think it is scarcely necessary for me to say more than a few words; because a fixed sum of a crore is granted every year for such works, the only addition being that when Upper Burma was taken over and a special addition was made for military works in that country; but that sum is virtually fixed, and I think I may say that it is useless to take any exception to the amount of money spent, because every year the demands upon us for Imperial and Provincial military works come to six or seven times the grant at our disposal.

"In regard to strategical railways—a subject which was also referred to by the Hon'ble Sir Griffith Evans—we are now engaged in making two railways which I venture to think are of vital importance to our military position on the North-West Frontier—the Murree-Attock line, which will complete our transverse railway communications on the left bank of the Indus, and the Mushkaf-Bolan line to Quetta, which we hope and believe will place our direct communication with Quetta by rail beyond all risk of flood or other accident. When these two railways have been completed, there is not, so far as I am aware, any other strategical line that has been sanctioned by the Government of India; and therefore, unless some fortuitous circumstances occur which we cannot now contemplate, compelling us to change our policy, I do not think it likely that there will be any fresh important expenditure under the head of strategical railways.

"As regards special defences, as has been stated by the Hon'ble Sir Griffith Evans, a special sum has been allocated for the purpose of fortifying India. That sum is now spent, with the exception of about half a million pounds

sterling; and when it is all expended this heavy yearly charge also will, I hope and believe, practically cease. It may interest the Council if I read an extract from a despatch received from the Secretary of State to the Governor General in Council, dated the 9th instant, which was received yesterday. Lord Kimberley writes:—

'The explanation given in paragraph 4 of the Review of Military and Marine Stores Expenditure for India for 1890-91 seems sufficient to account for the increased expenditure in England during the four years 1887-88 to 1890-91. The supply of the 70,000 magazine rifles demanded has now been completed, and, when the guns for the siege-train, heavy field batteries and North-West frontier defences and of machine guns for the various services have also been provided, there appears at present to be no reason why the expenditure should not return to normal.'

"I would point out that we have now nearly completed the frontier defences of India and the defences of our seaports, and have armed them with the latest and most efficient artillery. We have nearly completed the re-armament of our British infantry with magazine rifles, and of the Native army with Martini-Henry rifles, and the entire re-armament of our field artillery with the latest and best weapons; and we have done all this without borrowing, while France, Germany, Austria, Italy and every European nation has had to resort to borrowed money for these purposes, and even rich England borrowed money for her fortifications and even to build new barracks for her troops.

"I would only add this, that we are determined to exercise all possible economy in military expenditure. Steps were taken by me this year in conjunction with my hon'ble colleague the Financial Member to introduce greater order into the military financial arrangements—steps which I trust will, in the near future, result in improved economy. I can assure my hon'ble friend Sir Griffith Evans that nothing that we do not consider absolutely necessary has been included in the estimates of this year, and that a sum larger than that by which the estimates have been increased for items which the Commander-in-Chief and I would have wished to include in the estimates was put aside owing to our willingness to recognise the financial difficulties which made it undesirable to increase the estimates further; and I may assure him that in our establishments we do everything that we can to keep down expenditure to the very lowest limit, that we have no 'redundant' clerks, and that we have no officers drawing special salaries for posting letters."

The Hon'ble SIR PHILIP HUTCHINS said:—"My hon'ble friend Mr. Chentsal Rao has mentioned three points on which it seems desirable that I

should offer a few words of explanation. I am glad to say that his observations on all three have been anticipated by the departments of which I have the honour to be in charge. Two concern the Home Department; the third that of Revenue and Agriculture.

"And, first, with regard to the surplus under the head of Registration. Very recently the Government of India have been in correspondence with the Secretary of State regarding an increase to the registering establishments in the Madras Presidency, and in the course of it we ourselves distinctly laid down the principle, and Her Majesty's Secretary of State assented to it, that registration had never been intended to be a source of revenue. That I understand is what my hon'ble friend contends, so that we are entirely in accord with him, though this is not a time at which we can afford to give up any income which we already possess. The only doubt which the Secretary of State raised was whether the surplus should not be devoted rather to the increase of facilities for registration or the reduction of fees than to the improvement of the establishments. As to the reduction of fees, I am glad to find that the Hon'ble Member, with his far more intimate knowledge of the real sentiments of the people, has so entirely confirmed my own view, which is that the present fees are not at all regarded as excessive. Whether further facilities are required is being considered by the Local Government. I know it is a point which they have always kept in view, and I was under the impression that they had already done as much in this way as could reasonably be expected.

"Next, my hon'ble friend drew a comparison between the cost of the police in Bombay and Bengal. This is precisely the ground on which the Government of India lately demurred to a demand made by the Bombay Government for increased expenditure on its police. I wish I had the Local Government's reply here to read to the Council, for I feel sure that it would satisfy them as it satisfied me. Speaking from recollection, I can say that there are three main reasons why the cost of the Bombay police is so high in the Presidency proper. The first is the vicinity of the Native States, which are included in its boundaries or march along its northern and eastern frontier. The second cause is the number of wild tribes, like the Bhils, which require constant and careful watching. Lastly, the ordinary rates of wages for unskilled labour and for those classes from which the rank and file of the police are drawn are greatly in excess of the rates prevailing in Bengal.

"Towards the end of his speech the Hon'ble Member asked that a special officer should travel through each province to offer and distribute advances

under the Land Improvement Act. I cannot think this is necessary, though the suggestion will doubtless be considered by Local Governments. During the last year or two, the Government of India in the Revenue and Agricultural Department has constantly impressed on the district officers their duties in this respect, and commended by name those who have worked the Act with energy and success. I am confident that the people are now well aware almost everywhere that loans can be had for asking, provided security is forthcoming. That this is the case in Madras, to which the Hon'ble Member chiefly referred, is shown by the enormous sums distributed under the Act, as I recently had occasion to inform the Council, during last year's scarcity. On the same occasion I showed that the rules had been greatly simplified and that the procedure had been made as prompt and summary as is consistent with the security of the taxpayers' money of which we are merely administrators. At such a time of financial difficulty as the present I can hardly press the Financial Department for a larger allotment of funds for loans.

"I shall leave His Honour the Lieutenant-Governor to deal with Sir Griffith Evans' remarks on the Bengal Civil Courts and the accommodation for them, merely remarking that the matter is one which seems more suited for discussion in the Bengal Council than in that of Your Excellency. My recollection is that the full number of justiciaries which the High Court ultimately thought to be necessary were supplied fully two years ago."

His Honour THE LIEUTENANT-GOVERNOR said:—"As my hon'ble friend Sir Philip Hutchins has just mentioned, the question of the cost and supply of subordinate civil judicial officers in Bengal is more properly a question belonging to the Provincial Budget, which will be discussed in the Bengal Council on Saturday next; but, as the Hon'ble Sir Griffith Evans was good enough to give me a warning that he was going to speak upon the subject to-day, I prepared a brief statement of the figures in order to be able to present them to Your Excellency's Council. The answer of the Government of India, when the debate took place in March, 1890, was that they had not come to a final decision upon the subject, as the matter was still under consideration between the Local Government and the High Court. But in July, 1891, they passed final orders on the subject, and these orders are now in force. In 1890, when the subject was first mentioned, thirty-six temporary Munsifs and three temporary Subordinate Judges had been appointed to meet the difficulty before it was finally settled what the ultimate additional force should be. It was eventually decided that 55 extra Munsifs and four extra Subordinate Judges should be appointed in Bengal, the

total additional cost for these officers and the establishments attached to them being two and three-quarter lakhs of rupees. Besides that, the Government of India obtained from the Secretary of State sanction to the proposal that two supernumerary Subordinate Judges and six supernumerary Munsifs might be appointed from time to time whenever the Local Government, on the motion of the High Court, should request that additional staff might be created to meet any temporary difficulty.

"With regard to the results which have been achieved, I believe from what I have heard, and especially from the annual report sent in by the High Court, that this addition to the strength of the subordinate judiciary has met sufficiently the demands of the country. I notice that in 1889 these Courts disposed of 461,000 cases, and in 1891 they disposed of 485,000, so that we are pretty closely keeping on a level with the growth of institutions; and I believe it may be said that there are at present no demands in any quarter for an addition to the strength of the judicial staff, and no complaint that the persons who are concerned in litigation have not sufficient opportunities of getting their cases punctually and satisfactorily disposed of.

"The question of the accommodation of these Munsifs is one in which I have taken special interest, for I satisfied myself, when I came to make enquiry into the state of things, especially in Eastern Bengal, that many officers, and especially Munsifs, though not Munsifs alone, were housed in a manner which was not at all in conformity with the dignity of the Judicial Bench, and hardly sufficiently well for their own health and comfort. In 1891-92 a lakh and ninety-one thousand rupees were spent on the provision of additional accommodation for Munsifs, and in 1892-93 a lakh and a quarter of rupees have been set aside for this purpose. Although these sums may seem small in comparison with the figures involved in the expenditure of the Military Department, regarding whose moderation and self-restraint we have heard so much to-day, I can assure you that it is with great difficulty that they have been provided for from the finances of Bengal. We have only about ten lakhs which we can devote to original works, and out of this we have to provide for Revenue and Criminal Courts, as well as Civil Courts, for jails, schools, police buildings, hospitals and a few other smaller departments; and the amount spent on judicial buildings exceeds the amount spent on any other department in the province.

"I should like to take this opportunity of saying a very few words on the subject of registration. The Hon'ble Mr. Chentsal Rao has asserted—and the Hon'ble Sir Philip Hutchins has agreed—that it is a standing axiom that regis-

tration should not give any net revenue to the Imperial finances. I venture to think that that is an axiom which the Government of India should hesitate to accept. I grant that the fees should not be fixed too high, and that the first charge on the income should be a provision for extending registration establishments and offices wherever they are wanted. But, so long as these two postulates are satisfied, why should there not be a surplus of revenue over expenditure in this as in any other business? The dogma is one which at the present time requires serious consideration, and I will ask the Government of India to think carefully whether it should pledge itself to a principle like this at a time when, as Sir David Barbour has said, it may be absolutely necessary to impose fresh taxation to meet the financial exigencies of the country. In the year 1878 or 1879, I think, the Hon'ble Mr. Bazett Colvin was appointed by Sir John Strachey, when Finance Minister, to draw up a series of notes on all possible sources of taxation not yet developed in India. He treated a great number of those put forward as nostrums in newspapers and by other persons, and rejected most of them as impracticable; but he showed that it was possible to raise a very considerable revenue from the registration of landed property in India. I dare say Hon'ble Members are aware of the amount of revenue that taxation has produced from this source in France. The constant *morcellement* of landed property which goes on there is protected by a very careful and complete system of registration, and for this protection a high price is paid. I have not looked into the figures lately, but I believe the French finances receive as much as seven or eight millions sterling a year from the registration of landed property. And I have for many years looked upon this as really the sheet anchor of Indian finance, if it is absolutely necessary in the future to impose fresh taxation. I therefore think it important at the present juncture to put in a word of warning and to request the Government of India not to use any general words of condemnation about a source of revenue which they may find it necessary to have to resort to before very long."

The Hon'ble SIR DAVID BARBOUR said:—"I have to thank the Members of this Council for the very moderate tone they have adopted in criticising the Financial Statement of 1893-94.

"I am only too conscious that the Statement is open to attack on many points, and I fully recognise that the moderate, I might say indulgent, tone which has been adopted in the discussion is due to the fact that the difficulties under which the Government of India now labours are fully recognised, and that the Council desire, as much as possible, to avoid adding to the embarrassment of the Government.

"While thanking the Hon'ble Members of Council, on my own behalf, for the friendly spirit they have exhibited, I take the liberty of adding that in my opinion the moderation they have shown on the first discussion of the Financial Statement under the new Act is of good omen for the future, and I can assure them that, so far as I am concerned—and in this matter I believe I can speak for the whole Government—their criticisms and suggestions will not carry the less weight because they have been put forward in temperate language and with a due regard to the difficulties of the present position.

"The Hon'ble Mr. Fazulbhai Vishram has suggested that a portion of the cash balance of the Government of India should be invested so as to earn some interest.

"This course could no doubt be followed with advantage if we had in India a great money market such as exists in London. As matters stand in this country, I am afraid any attempt to invest a portion of the cash balance would do more harm than good. In the first place, our cash balance is not concentrated at the Presidency-towns. It is scattered all over the country, in the various district and local treasuries, and we must always have a large amount of cash actually available. This amount I would not place at less than ten crores of rupees.

"Of the balance a certain proportion is lodged in the Presidency Banks. The Banks do not pay interest on the money so lodged, but the use of these balances is one of the considerations for which they undertake to do the Government business, and in this way the Government receives the value of its money.

"Another portion is kept in the Reserve Treasuries of the Government of India, and is employed to meet sudden emergencies. In Bombay, public opinion has generally favoured the loan of this money for short periods and at a low rate of interest, but in Calcutta a different view has prevailed.

"After full consideration the Government of India have decided that it would not be to the public interest to accustom the Indian money market to rely in ordinary times on advances from the Reserve Treasuries. Such advances might not be of great relative importance in the London money market, but they would be of greater importance in India; they would be liable to be recalled at any moment, and, if such recall took place when from other causes money was dear (as it sometimes is in India), very serious consequences might be

produced. It has been decided, and I believe rightly decided, that the public interests will be best served if the surplus cash balance is kept as a reserve to meet any special difficulties that may arise. When stringency arises in the open market the Presidency Banks can often obtain advances from the Government, and they sometimes avail themselves of such advances. If gold is scarce in London, a slight raising of the rate of discount very soon brings in gold from other countries; but the case is very different in India. It takes a great rise in the rate of discount to attract capital temporarily to India. The money market has been easy in India for some years, but periods of very great stringency have arisen in the past and will no doubt be experienced in the future. The Government balances are really the only special reserve we have got. They can be readily made available in time of need either by buying the Secretary of State's bills, or by being temporarily lent to the Presidency Banks.

"It is quite true, as the Hon'ble Mr. Fazulbhai Vishram remarks, that with the fall in exchange the rupee pay of the Civil Services decreases in gold value, and the sterling pay of the British troops goes on increasing in silver value!

"This is just one of those anomalies of which we hope to get rid by a settlement of the currency question.

"I am sorry that I cannot give any further information at present as to the terms on which the loan of 300 lakhs will be raised. The terms of the loan must be settled with reference to the state of the money market at the time it is raised, and it would not, under any circumstances, be prudent to attempt to settle them some months in advance. The currency question has so unsettled financial matters in the present year that special caution is necessary.

"The Hon'ble Sir Griffith Evans made some remarks on the general financial position. He alluded to the large deficit in the estimates, and he pointed out that, if we absorbed the Famine Grant and withdrew the amount devoted to the construction of Railways and charged against Revenue under 37, the deficit would be largely reduced.

"He also pointed out, and very fairly, that the rate of exchange taken in the estimates was considerably above the market rate of the day, and that the estimates contained no provision for compensation to officers on account of the fall in the gold value of the rupee. Taking everything into consideration, he

came, as I understand him, to the conclusion that the Financial Statement did convey a correct picture of the present situation. That is a conclusion which I cannot be expected to controvert, and I need only explain that the sum of Rx. 75,100, which is to be expended on the construction of railways, and which he thought might be taken in reduction of the deficit, is Provincial and not Imperial expenditure, and that to strike it out of the estimates would not affect the deficit on the Imperial account.

" My hon'ble friend also made some remarks as regards the Home charges. Now, these charges may be looked at from two points of view. We may consider the total disbursements in England on account of India, or we may confine ourselves to that portion of the Home disbursements which goes to meet the cost of the India Office.

" I may mention in the first place that I have always been, and am now, strongly opposed to any increase in the disbursements in England on account of the Government of India. I think there are great objections to any such increase both from a political and from an economic point of view. But it is not so easy to keep down these charges as might at first sight appear. Everybody is prepared to agree that they should be kept down, but such agreement is what I may call an agreement in the abstract. When we come to concrete cases I do not find the same unanimity. For example, nothing is more beneficial to India than the construction of railways, and, sooner or later, great authorities urge that more rapid progress should be made in their construction. It is found that more money cannot be raised in India, and about this time the persuasive voice of the promoter is heard in the land, and simultaneously, and by what appears to be a sort of pre-ordained harmony, Chambers of Commerce both in India and in England take up the question. It is said that if the Government of India will only give a guarantee, quite a trifling guarantee and one which will really impose no burden on the finances and which is merely put forward to remove the doubts of Lombard Street, money will flow into India for the construction of railways and untold benefits will be conferred on the population. It is very difficult to resist a cry of this sort, raised in a very telling manner by a host of ingenious promoters, and supported by eminent authorities. At the same time, if we give way to it, the Home charges must be increased.

" Having said so much on the general question of the inexpediency of increasing the Home charges, I wish to add a few words which may help to remove some misapprehensions regarding them.

"It will be seen from paragraph 93 of the Financial Statement that the net Home outgoings for the coming year are estimated at £22,052,500. This is no doubt a gigantic sum of money, but £1,249,200 of the amount merely represents the paying off of certain railway debentures, and for this purpose a loan of £1,300,000 will be raised. In other words, the transaction is simply a conversion of debt from one form into another form. A further sum of £2,609,200 represents the repayments to Railway Companies of money received from these Companies in former years. If we act as, what I may call, Bankers for these Railway Companies, we must expect to have to repay to them the money which on a previous date we received from them. Sometimes we receive more in a year than we pay away, and sometimes we pay away more than we receive.

"In 1893-94, we expect to pay away £2,609,200, and we only receive £1,420,040.

"There is also a disbursement of £1,383,200 on account of remittances. This represents money which the Government of India receive in India and pay away in England. Some of this money is received from Railway Companies and is sent Home for the purchase of stores; some of it represents money received from Government servants in India and paid out to their families in England; some of it is money received from Native States or Local Governments for the purchase of stores, and so on. In short, these remittances are not, *qua* remittances, a charge against the revenues of India.

"There is also a sum of £1,160,600 on account of capital expenditure. This is money paid for the purchase of stores, and a direct commercial equivalent is received for the expenditure. I know no means whereby locomotive engines or steel rails can be procured for nothing, or without paying for them.

"There remains the net expenditure of £15,650,300 to be accounted for. Now, of this sum, no less than £5,747,200 is on account of the Railway Revenue Account, and it is money well laid out, and it brings in an ample return, including direct and indirect advantages.

"There is also a payment of £2,419,400 on account of interest on, and management of, debt. The rate of interest payable is 3½ or 3 per cent., and I know of no market other than that of London where money could have been raised so cheaply.

"There is also a payment of £1,404,900 for the purchase of stores for use in India. As I said before, I do not know any way of getting stores except by

paying for them. The balance includes payments for Postal and Telegraph communication with England, payments to the Admiralty for services rendered, and payments of political pensions to persons of Indian descent.

"I will not pursue the subject further. I am anxious to see the Home charges kept as low as possible, but I have said enough to show that they are not that gigantic, unjust and crushing burden on India which they are sometimes alleged, and I dare say believed, to be.

"I come now to the remarks which the Hon'ble Sir Griffith Evans made regarding the cost of the India Office.

"I may explain that the establishment of the India Office is not under the control of the Government of India, but under that of the Secretary of State for India in Council. The estimates and accounts of the India Office are laid before Parliament every year, and it should, I think, be presumed that due regard is paid to economy unless the contrary can be proved. My hon'ble friend's criticisms were put in an amusing form, but I think that in the absence of any real knowledge of the facts it would be wrong to take them for more than they are worth, lest in so doing we should do injustice to a large body of public servants who have no means of defending themselves in this place, and regarding the exact nature and extent of whose duties our information is necessarily very defective.

"As regards the Persian and Chinese Missions I may point out that these Missions perform certain services on the account of the Indian Government. We have important relations with China in regard to opium and other matters; the China Mission does a certain amount of work for us in connection with these matters, and the payment is supposed to be for that work. I am happy to say that in the case of these Missions there has been quite recently some reduction of the total charge.

"The Hon'ble Mr. Chentsal Rao has called attention to the surplus of about 15 lakhs of rupees, which is realised from the Registration Department, and, as that is a Department which is not maintained for the sake of the revenue which it produces, he has urged, with, as it seems to me, some reason, that the surplus should be devoted to the increase of the facilities for registration.

"I may explain that the Registration Department is managed by the Local Governments concerned, and any increase of expenditure which they

might consider necessary in order to facilitate registration would not ordinarily be objected to by the Finance Department. It can hardly be expected that at the present conjuncture I should urge them to increase expenditure on any object, however desirable in itself, but I am sure they will be prepared to take into consideration the suggestion which has now been made, and for my part I shall be prepared to leave the matter in their hands and to accept the decision at which they may arrive. I may mention, however, that the surplus of the Registration Department is not so large as the Hon'ble Mr. Chentsal Rao supposes, because the figures he has used do not include the charge for buildings and for pensions, or for some other items of no great importance. The Hon'ble Sir Charles Elliott has alluded to the possibility of our some day raising a large amount of revenue from a tax on registration. Far be it from me to set aside summarily any suggestion for increasing the revenues, but I may say that, so far as my information goes, I am not sanguine that we could raise as much money from this source as the French Government appears to raise in France.

"The Hon'ble Mr. Chentsal Rao has also called attention to the Famine Grant. The amount of this Grant was determined in the following manner. It was calculated that the loss, from falling off in revenue and actual expenditure on relief, due to scarcity and famine would amount to 15 crores of rupees in every period of ten years, and it was held that a provision of 1½ crores yearly would be sufficient as an insurance against such loss.

"I am disposed to agree with the Hon'ble Member that the provision made was unnecessarily high, if we look only to the possible loss from drought, scarcity and famine.

"On the other hand, this Famine Fund is really our only Reserve readily available to meet any of those vicissitudes to which the Indian finances are unfortunately liable, and I think this point should be borne in mind if it should be decided hereafter to take into consideration the question of reducing the amount of the Grant.

"In point of fact the Famine Grant, looked at simply as a reserve for the purpose of meeting the financial effects of famine, does not at present amount to so much as 1½ crores of rupees.

"In the coming year Rx. 340,200 from this Grant is set aside to meet the loss on the Indian Midland and Bengal-Nagpur Railways; Rx. 65,000 is

devoted to the construction of Protective Canals; Rx. 1,054,300 is devoted to the construction of Protective Railways, and only Rx. 40,500 is devoted to actual relief of famine.

"The whole Grant is devoted to purposes connected with famine, but only a very trifling proportion of it is set aside for the direct relief of persons who may be in distress owing to scarcity or famine.

"I should be very glad indeed to see the export-duty on rice repealed, but in the present state of the finances I could not recommend that any portion of the Famine Grant should be devoted to this purpose. We are passing through a grave crisis and should husband our resources to the utmost.

"The Hon'ble Mr. Chentsal Rao has alluded to the variation in the amount of charges under certain heads in different Provinces. It can hardly be expected that I should enter in detail into an explanation of all these variations.

"Speaking generally, the explanation is that in dealing with India as a whole we are dealing with a Continent, and not with a single country.

"The circumstances of the different Provinces vary very widely.

"For example, the percentage on receipts of the cost of collection of Assessed Taxes varies from Province to Province, because some Provinces possess revenue officials who assess and collect the Income-tax in addition to performing their other duties, and whose salaries are not charged as a portion of the cost of collecting these taxes.

"In such Provinces as Bengal, on the other hand, where, from the nature of the Land Revenue system, local establishments are small in number, a special agency has to be employed for the purpose, and the whole cost of such agency is charged against the tax.

"The Excise systems, too, vary very much from Province to Province, and so do the habits of the people in respect of the consumption of excisable articles. It is impossible to draw any conclusions from the mere fact that the cost of collection is higher in one Province than in another. With regard to the difference in the cost of the Police in Bengal and Bombay, I may remark that wages are higher in Bombay than in Bengal. The cost of the Bombay Police also includes about six lakhs on account of Special Police in Native States, the cost being recovered from these States. It also includes nearly five lakhs

on account of alienation of Land Revenue in favour of the village-officers connected with the Police. Bombay is the only Province in which such alienations are passed through the accounts.

"The Hon'ble Mr. Chentsal Rao also calls attention to the increase in superannuation allowances. There is, from the nature of the case, a steady growth of expenditure under this head, which is no more to be wondered at than is the growth of population and of general revenue.

"It must be recollected that there has been in past years a great increase in the number of officers employed under the Government of India, and the inevitable result is the growth of superannuation charges.

"There has also been in the current year some temporary increase of charge owing to superannuation allowances being paid monthly instead of quarterly in England. The decision to pay certain pensions in England at the favourable exchange of 1*s.* 9*d.* added something to the expenditure. The normal increase of expenditure under this head is about Rs. 4¾ lakhs yearly.

"The Hon'ble Mr. Chentsal Rao has referred to the advances on account of Land Improvement, and expresses a hope that the amount set aside for this purpose may be increased.

"The amount that can be devoted to such purposes is necessarily limited, but I believe more money is being advanced now than was formerly the case, and I hope it may be possible to increase it still further in future years. The total provision placed at the disposal of Local Governments for advances to agriculturists in the coming year is rather more than 33 lakhs of rupees. This is nearly three times the amount actually advanced in 1888-89. In 1891-92 and in the current year very large amounts were advanced, but these high advances were made in consideration of the drought and scarcity that prevailed in Madras, Bombay and Ajmere.

"A reference to paragraph 33 of the Financial Statement for next year will show how great are the claims of all kinds on the Government of India at the present moment, and I have been agreeably surprised that we have been able to meet them as fully as we have done."

His Excellency THE PRESIDENT said:—"I wish, in the first place, to acknowledge, as my Hon'ble Finance Colleague has done, the considerate and practical character of the observations elicited by the presentation of the Financial Statement.

"It will, I daresay, have struck Hon'ble Members that the situation with which the Government of India finds itself confronted is not a bad illustration of what is sometimes spoken of as the irony of events. It is certainly not a little mortifying to us that upon this, the first, occasion, when the discussion of the Financial Statement has taken place as a matter of right under the provisions of the Act of last year, we should be driven to lay before the Council so discouraging an account of our finances, and to add the admission that, for the present, it is beyond our power to describe the means by which we can hope to extricate ourselves from the difficulties and embarrassments which surround us. How much pleasanter it would have been if the Hon'ble Financial Member had been able to tell you of overflowing coffers, or, if they were, for the moment, less full than we could have wished, to explain to you the measures by which he looked forward to re-filling them in a suitable manner. I can assure my hon'ble colleagues that, if the suspense and uncertainty through which we are passing are trying to the public, they are not less trying to us.

"I believe, however, that the Budget which my hon'ble friend laid upon the table last week will serve a very useful purpose. It is, I cannot help thinking, the most striking object lesson in Indian finance which has yet been given to the world. My hon'ble friend reports to us that in two years the fall in exchange has added to our liabilities a sum exceeding four crores of rupees, a strain which he has said with truth our finances are at present unable to bear. We find ourselves compelled to restrict as closely as possible our expenditure upon those useful works on which this country depends so much for the development of its vast resources, and we are within a measurable distance of new taxation, the amount and incidence of which it is impossible to foretell, but which, if we are driven to impose it, will certainly be of an onerous kind. We are threatened with all these misfortunes, not because we have plunged the country into war, not because we have recklessly undertaken new expenditure, but because our medium of exchange is one the value of which is liable to violent and unforeseen fluctuations which we are entirely unable to control. It struck me, when the Hon'ble Member was delivering his speech last Thursday, that nothing could have given more point to what he said as to this part of his case than his announcement that, in the interval of time between the compilation of the Estimates and their submission to this Council, the further fall which had taken place was sufficient, if maintained throughout the year, to add Rx. 700,000 to our expenditure. There has, I am glad to say, since been some recovery, but the fact is none the less worthy of attention.

"My hon'ble friend is, I am afraid, but too well justified in regarding our position with grave apprehension. Not that, under ordinary circumstances, a deficit in an Indian Budget is necessarily a cause for very serious alarm. A country which has contracted large sterling liabilities, and which has to meet them from revenue collected in silver, cannot expect to adjust the income and expenditure of each year that passes with close precision. If these fluctuations were of an ordinary kind, if there were a reasonable prospect that an oscillation in one direction would be followed by an oscillation in another, we might well be content to find that, one year with another, our average income balanced our average expenditure during a term of years. Judged by this criterion, our financial history during the last four years is satisfactory enough. The Hon'ble Financial Member would be able to show that, taking the first four years of his own term of office as Finance Minister, he has had a net surplus of Rx. 5,686,000, an amount which would cover any deficit with which we can conceivably be confronted in his fifth year. Unfortunately for us, however, it is impossible to limit the question in this manner. We have to consider, not so much the years which are past and gone as those which lie immediately ahead of us, and, if we look forward to these, there can be no doubt that we have cause for serious alarm. In spite of the slight re-action which is apparently taking place, there is absolutely nothing to show that the rapid fall in the gold value of the rupee has yet come to an end, and we should remember that, with each further fall, our difficulties increase at a progressive rate. To make my meaning clear I may explain that, whereas a fall of one farthing in the gold value of the rupee, when exchange is at 1*s.* 6*d.*, involves a loss to the Government of India of 29⅓ lakhs, a similar fall, when exchange is at 1*s.* 4*d.*, means a loss of 37½ lakhs, while, if the same fall takes place at 1*s.* 2*d.*, the loss rises to no less a sum than 48¼ lakhs. No re-adjustments of taxation can keep pace with such a downward progress as this.

"It is this prospect, and this alone, that makes the outlook so alarming. In other respects I believe the financial position of this country to be perfectly sound, and, as Sir Griffith Evans has pointed out, there are not wanting hopeful elements upon which it is possible to dwell with satisfaction. Our total indebtedness is not great, and the larger part of it has been incurred upon useful works for which the State obtains a fair return, or which may, at all events, be regarded as valuable assets. We have been extremely careful to avoid reckless borrowing, and we have indeed, as the Hon'ble General Brackenbury has truly said, met out of ordinary revenue many liabilities which in other countries would have been provided for out of borrowed capital. Our land-

revenue has, as the Hon'ble Financial Member has shown, risen steadily in spite of somewhat adverse circumstances, and it will continue to rise. Our income from railways is progressive, and the gradual development of our commercial lines will, I feel no doubt, add still further to our resources.

"The large expenditure which has taken place during recent years upon special defences should, in the course of the next two years, come to an end, and our Military Budget will be thereupon relieved of a sum of some 40 or 50 lakhs per annum.

"These accessions of wealth would, in all probability, counterbalance the gradual fall in our revenue from opium—a revenue which is threatened both by Chinese competition and by political influences—but for the continued fall in the gold value of the rupee. It is, however, melancholy to reflect that, although we now take Rx. 25,000,000 of land-revenue from the people of India, instead of the Rx. 21,000,000 which we received twenty years ago, the larger sum, if tens of rupees be in each case converted into sovereigns at the price of the day, represents only £15½ millions, instead of the £19½ millions for which the smaller sum was interchangeable in the seventies.

"The same falling off has taken place in the gold value of our receipts from other kinds of taxation; the tax-payer's contribution, measured in rupees, increases steadily, but, measured by the standard made use of by the countries with which two-thirds of our business is transacted, the standard in which one-third of our own liabilities has to be met, it has shrunk below the level at which it stood in the seventies; and, if the United States of America were to discontinue their purchases of silver, and a further fall in the gold value of the rupee were to follow, none of the resources which I have indicated would enable us to meet the catastrophe in which we should for the moment be involved.

"It would not surprise me to find that we are asked, under these circumstances, why we do not take the public into our confidence and tell them, at least hypothetically, in what manner we believe that we might extricate ourselves from a position of so much anxiety. I must, however, express my entire concurrence in the view of the Hon'ble Financial Member when he told the Council that it would be idle for us to disclose the nature of the remedies to which we may be driven to resort until we have been made aware of the decision of the Home authorities in regard to the currency question. It is conceivable that the effect of that decision may be

to give early, if not immediate, relief to our finances. Upon the other hand, if that relief is not obtained, the situation will probably not remain as it is. If it is not improved, it will, bad as it now is, probably change for the worse—perhaps a good deal for the worse—and no conjectures which we can make will help us to gauge beforehand the dimensions of the difficulty which might then confront us. That we should, in this event, have to raise large sums by taxation does not admit of a doubt. How large they will be we have no means of judging, and we cannot, therefore, say how they might best be raised. Hon'ble Members, and the public generally, are perfectly well aware of the sources to which the Government of India is able to look for an increase of revenue, but it would be not only useless but mischievous to discuss projects for new taxation at a moment when we are in ignorance of the amount of revenue which we should require in order to restore financial equilibrium.

"I have only one observation to add upon this subject, which is that, should we find it necessary during the present summer to resort to new taxation in order to meet the deficit, we do not think it would be consistent with our duty to legislate for the purpose at Simla, and we should, therefore, in the event which I have contemplated, not hesitate, if necessary, to call the Council together again at Calcutta for a special session. Whether this course will, or will not, be necessary is absolutely out of our power to determine at the present time.

"With reference to the question of our military expenditure, I need add very little to what has been so well and clearly said by the Hon'ble Military Member. That expenditure has, no doubt, increased during recent years.

"I am, however, far from believing that the increase which has taken place necessarily convicts the military authorities of extravagance. The Hon'ble Military Member was able to shew that, here also, the fall in exchange has laid upon us a continually increasing burden. Since 1887-88 the military estimates have been increased by no less a sum than Rx. 350,000 owing to this cause.

"Again, there has, undoubtedly, been a considerable expenditure due to the fact that more regard is paid to the comfort and well-being of our troops than formerly. I have no doubt that this money has been well spent—'well and wisely spent,' as Sir Griffith Evans has said—upon the improvement of the army. We know that great difficulty is found in obtaining suitable recruits owing to the competition of other professions, and, unless we pay, feed, clothe and house our men properly, we shall find it impossible to attract to the ranks the proper class of soldier, either Native or British.

"Besides this, additional expense is constantly imposed upon us owing to alterations in the equipment and armament of the troops. If a new rifle is invented, or a new kind of ammunition adopted for the rest of the army, we cannot refuse to adopt it for the army of India. This is not, I think, entirely due to the influence of the 'enthusiastic soldiers,' to whom Sir Griffith Evans referred. I think there are many enthusiastic civilians who would loudly complain of us if we were to refuse to furnish our soldiers with the most improved arms and equipment.

"Nor must it be forgotten that, of late years, our military liabilities have very greatly increased, partly owing to the near approach of Russia on our western frontiers, partly because, by the annexation of Upper Burma, a great addition has been made both to the British Empire and to that fringe of unsettled country which adjoins our frontier, and within which we are obliged to maintain some kind of order, not from a desire to interfere gratuitously with those independent tribes of whom Sir Griffith Evans spoke, but for the protection of our settled districts. My hon'ble friend seemed to be under the impression that, in such cases, we were inclined to take advantage of the high state of preparedness of our army in order to launch our troops upon these fruitless operations. All I can say is that I can testify to the reluctance of the military authorities to allow their regular troops and their transport animals to be used in small bodies in these remote places, and I am under the impression that in the recent operations on the Kachin frontier, which I think my hon'ble friend must have had in his mind, the columns employed consisted mainly of military police.

"It is no doubt, *primâ facie*, very serious that the 1893-94 estimates should show an increase over the Budget of 1892-93. But the increases of expenditure which have been forced upon us by circumstances which we are absolutely powerless to control amount to a larger sum than that by which the Military Budget for 1892-93 has been exceeded. The increase in the estimates amounts, excluding expeditions, to 54½ lakhs; the increase in the obligatory expenditure, to which I have referred, exceeds that sum. Of the increase, no less than 24 lakhs are due to the fall in exchange, while 7½ lakhs are due to the rise of prices, and 8 lakhs to fluctuations which may be described as automatic, and which we are quite unable to regulate.

"It is, therefore, beyond our power to prevent the expenditure of 1893-94 from exceeding that of 1892-93, except by insisting upon very large retrench-

ments, which it would be impossible to carry out suddenly, and which, if they could be carried out, would seriously impair the efficiency of our army.

"Again, it should be remembered that, out of the total of Rx. 15,700,000 shewn in the military estimates for 1893-94, about Rx. 12,000,000 are for the pay, food and pensions of the army. Large economies in military expenditure can, I believe, only be effected by cutting down the numbers of the army, or by diminishing its pay, or by depleting our reserves of stores. A diminution of the pay of the army is out of the question. We shall be fortunate if we are not compelled to increase it before we are much older. I should be sorry to be a party to the depletion of our reserves of stores, and I trust that such a course will never find favour. It seems to follow that, if India is unable to bear the present military expenditure, we shall have to consider whether the strength of the army is greater than is absolutely necessary for the safety of the country. I for one am not prepared to admit this.

"I therefore greatly doubt whether we shall find it possible to make large reductions in our military expenditure, although we must do all in our power to resist further attempts to increase it. Two years hence our special defences will, as I said just now, it is to be hoped, be completed, and our military expenditure thereby reduced by some 50 lakhs per annum. We shall spare no pains to economize in other directions, but I wish to avoid holding out expectations which we may be unable to fulfil. I can, however, assure the Council that the Government of India desires, as earnestly as Sir Griffith Evans does, to avoid a recurrence of exceptional expenditure on expeditions, or on any other military objects, the necessity of which is in any degree open to question.

"There is one other matter as to which I must add a few words. It is that to which reference has been made by the Hon'ble Mr. Stevens and the Hon'ble Dr. Lethbridge. I am not at all surprised that they should have mentioned it, or that they should have reminded the Council of the grievous hardship to which European officers in the services of the Government of India have lately been subjected owing to the rapid fall of exchange which has taken place during the last two years. Nor have I any complaint to make of the Hon'ble Mr. Stevens' account of what passed when, at the end of January, I had the honour of receiving at Government House a deputation from the Services. I then stated that the Secretary of State had left us in no doubt as to the sympathy with which Her Majesty's Government regarded their case. I said that we could not expect the sufferers,

to tolerate, for an indefinite period, the distress which they had borne with so much self-command for some time past, and I expressed my hope that the time was approaching when we should be able to meet, in a just and reasonable manner, the claims which the deputation had urged upon me. When I uttered these words I certainly expected that, by the time the Budget Statement would be made, the suspense to which I referred would have been terminated, and I looked forward to including in our financial arrangements for the coming year suitable provision, either of a temporary or permanent character, to meet the case of the Services. I feel no doubt that those expectations were shared by our officers, and that it was generally, and I must say not unreasonably, anticipated that the Budget Statement would contain some specific engagement as to their case. If no provision has been made by my hon'ble friend, I trust that the omission will not be regarded as an indication that we desire to shirk the question, or to postpone its consideration for a day longer than we can help. As a matter of fact, the Government of India has, since the deputation was received, submitted to the Secretary of State specific proposals with this object, and suggested to him that provision for meeting those proposals should be made in the Budget.

"I have been authorised by His Lordship to make public in his own words the reasons for which he has found it impossible to sanction the necessary provision being made in the Budget. He telegraphed to us on the 7th of March as follows:—

'I greatly regret losses fallen on European officers, and am prepared to give consideration to any measures suggested by you for remedying grievances which you represent, but it is impossible to determine what measures should be taken, apart from the questions now before me with respect to the currency, decision upon which cannot be much longer delayed, but which cannot be expected before the Budget.'

"That is how the case of the Services stands, and I think it will be evident to Hon'ble Members that it is beyond our power, for the present, to do more than has been already done."

The Council adjourned *sine die*.

CALCUTTA;
The 4th April, 1893.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India,
Legislative Dept.

Government of India Central Printing Office—No. 517 L, D.—7-4-93,—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Acts of Parliament 24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14.

The Council met at Viceregal Lodge, Simla, on Monday, the 26th June, 1893.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G., G.M.S.I., G.M.I.E., *presiding.*
His Honour the Lieutenant-Governor of the Punjab, K.C.S.I.
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir P. P. Hutchins, K.C.S.I.
The Hon'ble Sir D. M. Barbour, K.C.S.I.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. L. Mackay, C.I.E.
The Hon'ble A. S. Lethbridge, M.D., C.S.I.
The Hon'ble W. Mackworth Young, C.S.I.

NEW MEMBER.

The Hon'ble MR. YOUNG took his seat as an Additional Member of Council.

INDIAN COINAGE AND PAPER CURRENCY BILL.

The Hon'ble SIR DAVID BARBOUR said:—"I have an important Bill to introduce which affects the Indian monetary standard; and, as it is essential that the Bill should, if approved, be passed at the present sitting of this Council, I beg that the standing orders may be suspended."

His Excellency THE PRESIDENT declared the Rules to be suspended.

The Hon'ble SIR DAVID BARBOUR said:—"I now move for leave to introduce the Bill, which is intended to amend the Indian Coinage Act, 1870, and the Indian Paper Currency Act, 1882, with the object of altering the Indian monetary standard from silver to gold. It is not intended to do more at present than

stop the free coinage of silver at the Indian mints, and, as a provisional arrangement, to provide for the issue of rupees at those mints in exchange for gold at the rate of 1*s.* 4*d.* per rupee. The making gold coins legal tender, the settlement of the permanent rate of exchange between gold and the silver rupee, and the other measures necessary for the final and effective establishment of a gold standard in India, will be provided for by future legislation and in the light of future experience.

"If it had fallen to my lot to introduce this Bill some twenty years ago, I have no doubt that it would have been received with some surprise, and would have met with considerable opposition. It certainly would have been necessary for the mover of such a Bill to explain at great length the nature of a monetary standard, the dangers which might be expected if India maintained the silver standard, and the advantages to be gained by substituting gold for silver, and it would have been difficult at that time to have brought forward arguments in support of so momentous a change which would have commanded general assent.

"The events of the last twenty years and the discussions to which they have given rise have, however, greatly simplified my task. We are only too familiar with the evils from which we have suffered in recent years, and the gloomy prospects before us, if we retain the silver standard, are fully recognised.

"Nevertheless, the question of the monetary standard is surrounded by so many difficulties, and the change which it is now proposed to make will have such far-reaching results, that I must trespass on the patience of the Council while I review, as briefly as may be, the history of the use of the precious metals as money, and show in what way, and under what circumstances, we have arrived at our present position; what lies before us if we retain the silver standard; and why it is that Her Majesty's Government and the Government of India have come to the conclusion that we must attempt the formidable task of altering the Indian monetary standard from silver to gold.

"Very many articles have been used as the standard of value in different countries and at different times, but for reasons which will be found in any work on Money, and which I need not enumerate, gold and silver were soon discovered to be the best materials for use as a standard of value and medium of exchange in countries which had any pretensions to civilization, and they came to be known, in a special sense, as the precious metals. There is no doubt that in the

first instance they passed from hand to hand by weight, as they still do in many parts of China.

"In countries where both metals circulated in this manner trouble and confusion arise, as they have arisen in the present day, from variations in the relative value of the two metals. The rulers of such countries found it necessary to declare the ratio of exchange at which gold and silver would be received in payment of taxes or tribute. The ratio which was declared was not an arbitrary ratio, but was approximately the market ratio of the day, and the object of declaring it was to prevent disputes between the persons who collected taxes and those who paid them, and no doubt also to get rid of the risk of fraud on the part of the tax-collectors. The fixing of a ratio had, as we now know, a remarkable influence under certain conditions in preventing or limiting fluctuations in the relative value of the two metals and producing comparative stability, and the practice to which I have just referred is the origin of what has been known in recent years by the somewhat awkward name of bimetallism—a system which has prevailed, in a more or less imperfect form, from the earliest times up to a very recent period.

"I shall have occasion to refer at a later period to this system of using both metals at a ratio declared by authority; but for the present I pass to the next great step in the development of the standard of value and medium of circulation, namely, the introduction of the practice of coining. I need not enlarge on the advantages which resulted from the introduction of this reform, as the convenience is obvious of having the weight and fineness of the pieces of metal in daily use as the circulating medium certified by authority.

"One invention leads to another, and from the introduction of the practice of coining and of the issue of coined money by authority sprang the idea of legal tender.

"In very early times a creditor could demand his shekel of fine silver, but subsequently he became entitled under the law only to what the ruler of the country or his officers certified to be a shekel of fine silver.

"The most valuable inventions are liable to be abused, and the invention of coined money issued as legal tender has not proved an exception to the rule. As rulers in early times were subject to little restraint, and not usually more enlightened than their subjects, they were readily induced to make a profit by

certifying, as (say) a shekel of silver, a coin which contained less than the full quantity of metal. It was an easy transition from a debased coin to a coin made of a totally different metal, and from that to something which was neither coin nor metal.

"The best example of proceedings of this nature with which we are familiar in the present day is the issue of what is called inconvertible paper money, or, in other words, pieces of paper which the Government of the day declares to be legal tender, but which are not convertible into coin, and which depend for their value partly on the limitation of the quantity issued, and partly on the hope that they may some day be made convertible into coin on demand.

"I have now shewn that the progress towards a monetary standard, as the phrase is understood in the present day, has consisted of a few simple steps which, however, required thousands of years for their accomplishment and for the general recognition of their utility.

"Among these steps was the fixing of a ratio, or rather the declaring by authority of the existing ratio, between gold and silver with the object of facilitating monetary transactions in countries where both gold and silver money circulated. This practice had an important secondary effect in tending to maintain stability of relative value; it has only been generally abandoned during the last twenty years, and it is the abandonment of this system which has plunged us into our present difficulties in India. It is useless for us to discuss at the present time whether that change of practice was or was not a beneficial reform, or whether or not it could have been avoided. There are those who hold that the change was, or will be, beneficial, and that it was an inevitable step in the progress of the world towards a perfect monetary standard. There are others who hold that it was a rash and dangerous innovation, and that the sooner we retrace our steps the better.

"I express at the present time no opinions on this question; it is sufficient for our purpose to note the fact that the change was made; that serious consequences have flowed from it which were not foreseen; and that it has plunged India into a sea of monetary troubles.

"The Government of India have failed in their efforts to induce the great nations of the world to establish the old system, and it is not the business of practical statesmanship to waste time in vain regrets for what might

have been in the past, but rather to accept the inevitable and devote attention to making the most of the present and the future. As, however, this important departure from the old system of double legal tender has had such serious consequences during the past twenty years, as the consequences of the change are not yet exhausted, and as it is this change which has led to the present proposal to alter the Indian standard from silver to gold, I consider it necessary to note, as briefly as I can, the course of events which led up to it and brought it about.

"In the middle ages the monetary standard of England was silver, and it was not till the reign of Edward III that a successful attempt was made to put gold coins into circulation; but from that time both gold and silver coins continued to circulate in England, the ratio of exchange between them being declared from time to time by Royal authority. The legal standard of the country continued to be silver, but coins of both metals were in circulation and were frequently debased, and the ratio of exchange altered.

"What I have just said of England might, I believe, be said with equal truth of most European countries at that time. The inconvenience and loss to honest traders must have been enormous, and such as would not be borne for a day at the present time. Business was, however, conducted on very different principles from those which now prevail; the margin of profit was larger, and those who made their living by trade and commerce had to take things as they found them, since they possessed no means of applying a remedy. Our gigantic modern system of manufacture, trade and finance would have been simply impossible under such standards of value as the traders of former times had to accept.

"Among other fallacies which prevailed in those days, it was commonly held that the wealth of a country depended on the quantity of gold and silver money which it contained. The measure of wealth had come to be mistaken for the wealth itself. It was quite a common practice for a ruler to deliberately overvalue the gold coins with the intention of attracting gold from foreign countries, and great surprise was experienced when it was found that the over-valuation of gold necessarily involved the under-valuation of silver, and that, though gold was attracted by this device, silver was exported to an equal extent, and no alteration was effected in the aggregate quantity of gold and silver contained in the country. Laws were passed against the export of both gold and silver, but such laws were, of course, easily evaded.

"It is difficult to imagine a more exasperating state of things than that under which both gold and silver circulated in different countries at rates fixed independently by the ruler of each country and altered from time to time with the object of attracting gold or silver from neighbouring countries. These evils appear to have reached their climax in England in the reign of James I. There is no doubt but that the large influx of silver from America after the year 1545 tended to lower the value of that metal, but it has always seemed to me that the great alteration in relative value which took place between 1620 and 1650 was largely due to the meddling with the legal ratio which took place in England and adjoining countries at that time. There was no such alteration in the relative production of the two metals during those years as would suffice to account for it.

"After 1660 there was no serious fluctuation in relative value down to comparatively recent times—a fact which I ascribe to the growing recognition of the futility of attempting to attract the precious metals from other countries by altering the legal ratio.

"In the reign of William III, however, events occurred which have had a most important influence in shaping the monetary policy of Europe in the present century, and which require special notice. In that reign the currency of England fell into the most extraordinary state of confusion owing to the fraudulent clipping of the silver coin, and the gold coins commanded a very high premium for a time. When the debased coins were called in and new and full-weight coins were issued in their place, great trouble was experienced in reducing the premium on guineas. This premium was gradually brought down by executive order, but the final order left the guinea overvalued as compared with the silver coins, with the inevitable result that the new and full-weight silver coins were exported, and the currency of England became gold coins, supplemented by light-weight silver coins which it was not profitable to export. The legal standard of the country continued to be silver.

"This state of things lasted till 1798, when the value of silver fell relatively to gold, and it once more became profitable to bring silver to the mint to be coined. By this time the English people had become accustomed to the use of gold, and an Act was passed expressly prohibiting the free coinage of silver. In the beginning of the present century the currency of England was composed of inconvertible and depreciated paper, and when, after the close of the great war with Napoleon, a return was made to specie payments, the legal standard of

England was declared to be gold, mainly, I believe, on the ground that by their use of gold instead of silver for over 100 years the English people had shown their preference for that metal. That the people preferred gold to silver as currency at that time was probably correct, but that preference arose from their having been accustomed to use gold for over 100 years, and they were accustomed to use gold because gold had been overvalued in the first instance, and not, as has been sometimes said, because they were originally so strongly attached to gold that debtors preferred to pay their debts in gold at a loss to themselves rather than use silver. There never has been in the history of the world, and there never will be until human nature ceases to be what it is, a case in which of two sets of coins circulating side by side the dearer will drive out the cheaper.

"The formal adoption of the gold standard by England had no appreciable effect on the relative value of the two metals, because the majority of nations still adhered to the silver standard, and the system of double legal tender prevailed extensively, especially in France, where there has always been a great store of the precious metals.

"This state of things lasted till the year 1873, and, notwithstanding the great increase in the production of gold owing to the discoveries in California and Australia, the disturbance in value was comparatively slight. So great was this stability that its continued existence came to be accepted almost as a law of nature, which would never be broken; and an eminent Ecomonist—Professor Cairnes, of whom I desire to speak with the greatest respect—actually placed the following opinion on record in the year 1872:

'I may now say (1872) that I am disposed to assign much less importance to this question of a change in the monetary standard of India than I did when the above passage was written. The reasoning assumes the probability of a serious divergence in the relative value of gold and silver, but I now believe that such a divergence is practically out of the question.'

"I call special attention to the fact that this opinion was placed on record by one of the ablest Economists of the present century in the year 1872, or, in other words, just before the beginning of those fluctuations in the relative value of the precious metals, and of that depreciation of silver as compared with gold which have brought this country within a measurable distance of bankruptcy. We can now see that in reality the position in 1872 was full of danger. Gold and

silver were both used as standard money, and divided the monetary work of the world between them; for a long period there had been comparative fixity of relative value between the two metals, but the causes of this steadiness, the importance of maintaining it, and the readiness with which it could be destroyed were practically unrecognised and unknown.

"On the other hand, the eminence which England—the sole gold-using country of any importance—had attained in manufactures, commerce and finance had unconsciously led many people to believe that there must be some special virtue in the gold standard; and as there seems to be a prejudice in favour of the metal which contains most value in little bulk, and gold had become relatively much more abundant than in former times, the monetary system of the world was in what may be termed a state of unstable equilibrium, and we were on the eve of changes which have produced a monetary revolution which is still in progress, and the force of which is far from being exhausted.

"We all know how the change was brought about. Germany altered her standard from silver to gold. France and the other States of the Latin Union closed their mints to silver. The United States, where the currency was for the time inconvertible and depreciated paper, abandoned the system of double legal tender, a change which had the most serious results when a return was made to specie payments.

"Other nations followed in the same direction, and in India we were suddenly brought face to face with the great currency problem in the most disagreeable form by finding that the gold prices of silver fell, while the exchange on England went down and became subject to excessive fluctuations.

"It so happened that I was employed in the Finance Department of the Government of India at the time, and my recollection is that, in the first instance, the general impression was that the mischief was due to the great Comstock Lode, which was supposed to be pouring out unlimited quantities of silver. Discussions and enquiry followed, and gradually it came to be recognised that probably the most momentous currency change that has ever taken place had been carried out with, I may say, the most complete failure on the part of the civilised world to recognise the nature of the change or to appreciate the consequences that must follow. The question has been investigated by a Special Committee of the House of Commons and by a Royal Commission. It has formed the subject of three International Conferences and given rise to a

flood of currency literature. I will not say that no progress has been made in the education of the public mind, for I am satisfied that very much light has been thrown on the problem by the discussions that have taken place during the last twenty years. But, I am sorry to say, increase of knowledge has not led to unanimity of opinion, and, what is more to be regretted, it has not led to the application of any remedy.

"The disputants may roughly be divided into two camps—those who urged that the world should return to the old system of double legal tender, and those who maintained that financial salvation was not to be found outside the pale of monometallism. The thorough-going monometallists advocated the gradual extension of the single gold standard to the whole civilised world, silver having become, in their opinion, a discredited metal, no more worthy to be treated as a standard of value than cowries or cockle shells. Another, and I believe a larger, section of the gold camp favoured the adoption of the gold standard by one-half the world, and of the silver standard by the other. The latter proposal always appeared to me to be wanting in the elements of finality. It would have left the civilised world exposed to the evils of a break of monetary gauge, and I was unable to discover any good principle on which it could be decided what countries should adopt the gold standard and what countries should adopt the silver standard, or how a country could be prevented from deserting from one standard to the other with all the attendant monetary disturbance which necessarily results from such changes.

"It was said at one time, and I believe quite seriously, that all the rich countries should choose gold and the poor ones silver. It is instructive to form a mental picture of the proceedings of an International Conference assembled for the purpose of settling the monetary affairs of the world in accordance with this remarkable principle. Unanimity of opinion would, for the first time in the history of such conferences, be secured, but it would be secured by the representative of every nation declaring that he appeared on behalf of an undoubtedly wealthy and solvent community, and one that was determined to march in the van of civilization. If by any accident a nation could have been found willing to admit that it was too poor to enjoy the luxury of a gold standard, it would have been necessary for it, in order to maintain the currency equilibrium, to admit not merely that it was poor in the present, but that it intended to remain poor in the future, as any access of wealth at a future date would have involved the adoption of the more fashionable standard.

" For my part I have always recognised that there was no permanent halting place between a return to the old system of double legal tender and the gradual extension of the gold standard to all civilized countries.

" In the very first Financial Statement which I had the honour to deliver in this Council, I made the following remark :

'It is needless to say that the question of the future relations between the gold and silver standards is one of great importance for India. The present condition is not one of permanent equilibrium. Either there will be continuous progress in the direction of demonetising silver and substituting gold, or the world will revert to the old system of double legal tender.'

" In the twenty years during which the Battle of the Standard has raged no practical measures have been taken for the purpose of restoring the old stability of value between the precious metals, and the only measure that has been adopted with the view of maintaining the value of silver is the purchase of that metal by the United States. That country has made a great effort to maintain the value of silver, firstly, by large purchases under what was known as the Bland Bill, and latterly by still larger purchases under the Sherman Act. As it happens, the purchases of silver by the United States have latterly been contemporaneous with one of those great increases in the production of that metal of which the history of the precious metals affords several examples. The Government of India have also kept open their mints, and in recent years India has absorbed a very large amount of silver. But the crisis to which I called attention in March 1889 has at length arrived. No international agreement has been obtained ; Austria-Hungary and Roumania have definitely adopted the gold standard, and Russia is known to have accumulated large quantities of that metal. When I explained the financial position of the Government of India at the beginning of the current year, I had to point out that in two years the fall in the rate of exchange had added Rx. 4,142,000 to the Indian expenditure. Gloomy as was the account which I then rendered to this Council, I am far from suggesting that the case was hopeless if only we could have secured some stable rate of exchange. On the contrary, I am satisfied that if exchange did not fall below the very low figure taken in the Budget, or if it did not fall materially below that figure, there would have been no insuperable difficulty in the way of restoring financial equilibrium. But the really serious feature of the case was that there was no reason for hoping that exchange would not fall below the very low figure of last March, and that there was, and could be, no guarantee against frequent and excessive fluctuations.

Above all, we were exposed to the risk that the United States might suddenly cease to purchase silver. I estimate that, if these purchases were suddenly stopped, India would have to absorb a further sum of about Rx. 8,000,000 worth of silver yearly, and an additional burden of this magnitude suddenly thrown on India's trade with Europe would have a depressing effect on exchange, the extent of which it is impossible to foresee. The additional expenditure imposed on India by this cause would have brought us to national bankruptcy, or within a measurable distance of it.

"It has been urged upon me by an authority upon questions of Indian currency, and one whose opinions I highly value, that even in the case I have supposed it would be better for India to repudiate her obligations, and accept bankruptcy rather than attempt to change her standard. That opinion I do not share, although I have been a bimetallist for years, am still a bimetallist, and am by no means certain that the Battle of the Standard will be finally closed by any measure this Council may pass to-day, or even by the cessation of her silver purchases on the part of the United States of America. For weal or woe, India has entered the ranks of civilization. Her territory has been opened up by railways; the progress of human invention has brought her into close and daily contact with the great countries of the West; her trade and commerce increase year by year, and the tide has so far turned in her favour that she has made a most promising beginning in the export of manufactured goods. The adoption of the same standard of value as that of the countries with which she maintains intimate financial and commercial relations, and whom she hopes to rival, is a necessity of further progress, and the discredit of national bankruptcy cannot and will not be accepted on her behalf.

"The Government of India have striven long and earnestly for such a settlement of the currency question as would leave India in possession of the monetary standard to which she has been accustomed, and they have striven unsuccessfully. In the opinion of Her Majesty's Government, the time has come to take a new departure.

"A recital of the efforts which have been made by the Government of India during the last twenty years for a settlement of the monetary question would be a dreary catalogue of repeated failures. No practical purpose would be served by recalling them to mind at the present time; but it may not be uninteresting to the general public to call attention to the recent proceedings which have led up to that decision to establish a gold standard in India which I am now explaining to this Council.

"In the beginning of 1892 the Bengal Chamber of Commerce called the attention of the Government of India to the fluctuations in the relative value of gold and silver, and, with reference to the fact that the United States had invited the different Powers to a Conference for the purpose of considering the monetary question, the Chamber urged that the Government of India should promote an international agreement for the free coinage of gold and silver at a fixed ratio, and that, failing any such agreement, steps should be taken to have the question of a gold standard for India carefully and seriously considered by competent authorities. The Government of India practically accepted the views of the Chamber, and recommended to the Home Government, firstly, that if the United States of America or any other Government should make proposals for the holding of an International Conference for the settlement of the silver question, the strongest support should be given to those proposals; and, secondly, that if it became evident that the International Conference was unlikely to arrive at a satisfactory conclusion, and if a direct agreement between India and the United States was found to be unattainable, the Indian mints should be closed to the free coinage of silver and arrangements made to introduce a gold standard.

"An International Conference was duly held, and the representatives of India took part in it, but no conclusions, satisfactory or otherwise, were arrived at, and no separate agreement between India and the United States was concluded. In the meantime, and before the International Conference met, a Committee was appointed under the presidency of Lord Herschell to advise as to whether it was expedient that any steps should be taken to modify the Indian Currency Act. This is the Committee which has attracted so much attention in India, and which has recently made its report to the Secretary of State.

"It will be understood that the attention of this Committee was not directed to the question of the expediency or feasibility of obtaining a remedy by means of a general international agreement, or by means of an agreement between India and the United States, but solely to the question of the expediency of attempting to establish a gold standard in India, that being the remedy which the Government of India had advocated in the last resource, and failing the other suggested remedies. The question referred to the Committee is thus stated in the first paragraph of their Report:

'The question referred to the Committee by Your Lordship is whether, having regard to the grave difficulties with which the Government of India are confronted through the heavy fall in the gold value of silver, it is expedient that Her Majesty's Government

should allow them to carry into effect the proposals which they have made for stopping the free coinage of silver in India with a view to the introduction of a gold standard. And if we are of opinion that there is no sufficient ground for overruling the Government of India, but that the measures by which they propose to attain their object require modification, we are asked to offer any suggestion that we think fit for the purpose.'

" The practical measures which the Government of India had proposed for the introduction of a gold standard into India, assuming that the other suggested remedies had failed, were the following:

1st, the stoppage of the free coinage of silver at the Indian mints by legislative enactment;

2nd, the grant of power to the Government of India to declare by notification that sovereigns were legal tender in India at any rate not exceeding 1*s.* 6*d.* per rupee.

" It was not proposed that the mints should be opened to the free coinage of gold as soon as they were closed to silver, or that a ratio should be declared at once between gold and the rupee; but it was intended that the effect of closing the mints should be watched for some time, and, if it were found that the rate of exchange was rising to an extent which was injurious to the welfare of the country, that the Government should interfere at once and check the rise by declaring the sovereign to be a legal tender at a certain rate. The highest rate which the Government of India were to be authorised to declare under any circumstances was 1*s.* 6*d.* per rupee.

" The Committee discussed the question of a gold standard for India in all its bearings. Their Report will be published to-day in India, and to that Report I must refer those who wish for full information on the subject. They came to the conclusion that, although there are objections which possess weight to any attempt being made to introduce a gold standard into India, yet, in view of all the circumstances of the case, this is the course that should be adopted, and they proposed one modification of the scheme put forward by the Government of India. The Government of India had proposed to close the Indian mints to the free coinage of silver, to take power to declare the sovereign to be a legal tender at a rate not exceeding 1*s.* 6*d.* per rupee, and to await the result of closing the mints, and be guided by the experience thus obtained in deciding on future action.

"To these proposals objection was taken on the ground that, if the mints were simply closed and no further steps taken, there might be a sudden and considerable rise in exchange which would have injurious consequences and excite apprehension in the public mind.

"For these reasons the Committee recommended that, as soon as the mints were closed to silver, arrangements should be made for the issue of rupees at the Indian mints in exchange for gold at the rate of 1*s.* 4*d.* the rupee, and for the receipt of sovereigns at the Indian Treasuries in payment of Government dues at the rate of fifteen rupees per sovereign. These proposals have been accepted by the Government of India and approved by Her Majesty's Government, and the Bill which I now propose to introduce is intended to give practical effect to the scheme.

"The Bill which I am about to introduce provides for the closing of the Indian mints to the free coinage of silver, Government retaining the power to coin silver rupees on its own account.

"The arrangements for the receipt of gold at the mints at a ratio of 1*s.* 4*d.* per rupee will be made by executive order, and so will the arrangements for the receipt of sovereigns in payment of sums due to Government at the rate of fifteen rupees for a sovereign.

"Gold coins will not for the present be made a legal tender, and consequently nobody will be compelled to receive them instead of silver rupees unless he is willing to do so.

"The Government have also abandoned their intention to take power to declare sovereigns a legal tender at any rate not exceeding 1*s.* 6*d.* per rupee.

"The ratio of exchange between gold and the silver rupee has not been finally settled. The making of gold legal tender, and the ratio of exchange as compared with the rupee at which gold shall be made legal tender, are matters which must be settled hereafter by legislative enactment and in the light of future experience."

The Motion was put and agreed to.

The Hon'ble SIR DAVID BARBOUR said:—"I now introduce the Bill, and move that it be taken into consideration at once. The provisions of the Bill are extremely simple, and the only change of any importance that it is intended

to effect by means of it is to provide for the stoppage of the free coinage of silver at the Indian mints.

"As, however, the Bill, though so simple in itself, is intended to carry out a most important change in the Indian currency, I will explain its provisions in detail.

"In the first place, the Bill repeals sections 19 to 26 (both inclusive) of the Indian Coinage Act, 1870. These are the sections which provide for the coinage of all gold or silver brought to the mints by private persons. The quantity of gold brought to the mint for coinage is quite trifling; and as the gold coins now coined at the mint are not legal tender, and as they will doubtless be superseded altogether when gold is made a legal tender, it is undesirable that any more of them should be coined. This is the only change which is made in the Indian Coinage Act, 1870.

"The Bill also repeals clauses (*b*) and (*d*) of section 11 of the Indian Paper Currency Act, 1882, and the proviso to that section.

"Clause (*b*) refers to silver coin made under the Portuguese Convention Act, 1881; and, as that Convention has come to an end, the clause is no longer required.

"Clause (*d*) provides for the issue of notes by the Department of Paper Currency in exchange for silver bullion or foreign silver coin; and, if it were retained, it would permit of rupees being obtained for silver as at present.

"The stoppage of the free coinage of silver at the Indian mints necessarily involves the repeal of clause (*d*), and the proviso ceases to have any meaning when clause (*d*) is repealed.

"In section 12 of the same Act an allusion to clause (*b*), which is now repealed, is struck out.

"Section 13 of the Indian Paper Currency Act provides for a portion of the metallic reserve of the Paper Currency Department, not exceeding one-fourth, being held in the form of gold. As the standard of India will in future be gold, the limitation of one-fourth is no longer required, and so much of the section as limits the proportion of gold to one-fourth is repealed. Sections 14 and 15 of the Act are entirely repealed. They refer to bullion or foreign coin tendered under section 11, clause (*d*), or section 13, and they are no longer

required, because clause (*d*) of section 11 will now be repealed, and because it is not intended for the present that private persons should be allowed to tender gold for notes under section 13.

"Certain alterations are also made in sections 21 and 28 to bring these sections into accord with the Act as now proposed to be amended.

"I may here mention that a notification will be issued under authority of section 13 of the Paper Currency Act, 1882, as now amended, providing for the issue of notes by the Paper Currency Department in exchange for gold on the requisition of the Comptroller General. The object of this notification is to enable that officer to pass gold into the Paper Currency reserve if it should accumulate to an inconvenient extent in the Government Treasuries.

"A notification will also be issued under executive authority authorising the public treasuries to receive sovereigns of current weight in payment of Government dues at the rate of fifteen rupees for one sovereign.

"Another notification will be issued under the same authority authorising the Masters of the Mints at Calcutta and Bombay to issue, under suitable conditions, silver rupees for gold at the rate of one silver rupee for 7·53344 grains troy of fine gold. This corresponds to an exchange of 1*s.* 4*d.* per rupee.

"These three notifications will be issued as soon as the Bill is passed.

"Before calling on the Council to pass the Bill, it will be well that I should notice briefly some of the objections which have been taken to the introduction of a gold standard into India. These objections have been very fully discussed by the Committee of which Lord Herschell was President, and the arguments for and against the proposal to introduce a gold standard into India will be found stated at length in their Report.

"It has been said that the divergence in the relative value of gold and silver is due to the appreciation of gold and not to the depreciation of silver; and, if this be the case, it may fairly be argued that the introduction of a gold standard into India is wholly unjustifiable.

"With regard to this argument, I have a preliminary observation to make. The words appreciation and depreciation as applied to the standard of value are ordinarily used without a precise meaning being attached to

them. They are words which I would rather not use at all if their use could be avoided, but in answering the argument to which I have just referred I must employ them, and I wish it to be understood that for present purposes I attach to them the somewhat indefinite meaning which is usually given to them. In other words, by appreciation or depreciation of the standard of value I intend to denote a rise or fall in value due to causes primarily affecting the metals themselves rather than the commodities of which the price falls or rises as the standard appreciates or depreciates. Using the terms in this sense, I have to remark that, when gold and silver alter in relative value, it does not necessarily follow that the whole change is due to the appreciation of the one metal or the depreciation of the other. There may be simultaneously appreciation of one metal and depreciation of the other. Or a metal may appreciate at one time and depreciate at another. I must say that it does appear to me that there was appreciation of gold after 1873 rather than depreciation of silver. There was a greatly increased demand for gold at that time, while the production was rather falling off, and there was a very great fall in prices. These facts seem to me to point very clearly to appreciation of the gold standard, and there are other arguments leading to the same conclusion which I need not enumerate at present. On the other hand, there is equally good evidence that silver has depreciated during the last few years. Notwithstanding the fall in the price of that metal, the total production has continued to increase rapidly, and, notwithstanding the fall in exchange, the imports of silver into India are larger than before. There has also been a distinct tendency during the same time towards a rise in Indian prices, and many complaints have been heard from persons on fixed incomes.

"The introduction of a gold standard at the present time may, therefore, be more correctly described as a measure intended to stop the present process of depreciation rather than as causing appreciation.

"It may, of course, be argued that there is likely to be an injurious appreciation of the gold standard in the future, and here we enter on very debatable and speculative ground, and there is really no means of coming to a positive decision either one way or the other. The question appears to me to resemble those problems that certain people are so fond of putting forward, such as what will happen when all the coal in the world is used up. It is not possible to arrive at any conclusion on such questions, and from a practical point of view they possess little interest for us. If it is the case that the entire store of coal will in time

be exhausted, we possess no means of averting that result, and we had better leave the problem to those who will be affected by such a calamity. At present the production of gold is increasing, and there appears every prospect of its continuing to increase for some years at any rate. Whether in the long run demand will outstrip supply to such an extent as to cause an injurious appreciation of the standard is one of those questions affecting the future which we have no means of deciding, and with which we need not concern ourselves.

"If gold does appreciate, we shall at any rate be no worse off than the other nations which have adopted that standard; on the contrary, we shall be better off, for we shall have escaped any appreciation which may have occurred in the last twenty years.

"Another objection is that with an over-valued rupee there will be great risk of false coining. I do not say that there will be no risk of false coining, but the experience of countries in which the silver currency has been over-valued for a number of years shows that this danger has been exaggerated. False coining on a small scale is not very profitable, and would not be productive of much mischief so long as the coins were made of good metal. False coining on a larger scale could not be carried on without the use of expensive machinery, and is practically impossible. In any case, if there is to be false coining, it will affect other countries long before it becomes common in India. The inducement to manufacture and issue false coin is the amount of profit to be made, and the amount of profit will be much greater in America, France, England and other countries than it will be in India, because the silver coins will be over-valued to a greater extent in those countries than they will be in India.

"It has also been said that, if India has a gold standard, the countries which retain the silver standard will have an advantage over India in the production of commodities for export. I attach no importance to this argument so long as the Indian standard is in itself a good one. A sudden rise in exchange will injuriously affect certain industries for a time. A sudden fall in exchange may give them an undue amount of profit and supply a temporary and artificial stimulus. But the principles which regulate international trade rest on a totally different basis, and it seems to me an obvious truism that our manufactures and our commerce will advance more rapidly under a system which gives India the same standard of value as her principal customers than they could possibly do under a system which give us one standard of value and our chief customers a different one, the two standards varying in relative value from time to time in a manner which defied calculation.

1893.] [*Sir David Barbour.*]

"There remain certain objections which appear to me to possess weight.

"There is no doubt that the making of the rupee a token coin will be a source of loss and inconvenience to persons in India who possess uncoined silver, and that the adoption of a gold standard by India will injuriously affect to a greater or less degree our trade with silver-using countries beyond sea, our trade with the Native States of India, and our frontier trade with Foreign States.

"The answer to these objections is that the question of the adoption of a gold standard must be decided not with reference to any one consideration, or to a limited number of considerations, but after a careful examination of all the circumstances of the case, and that we must decide where the balance of advantage lies and act accordingly. It is true that persons who hold uncoined silver will lose; but, on the other hand, the same persons generally hold rupees also, and in respect of their coined silver they will gain. If our trade with silver-using countries will be injuriously affected, our trade with gold-using countries will be beneficially affected in a corresponding degree; and the latter branch of our trade is much larger and more important than the former. It is more than probable that some of the silver-using countries with which we trade will also adopt the gold standard, and as time goes on the tendency will certainly be in that direction if we succeed in establishing gold as the standard of India. It is also quite possible that some or most of the Native States of India may decide to adopt the gold standard; and our land trade with foreign countries is not very important, and is subject to so many drawbacks already that a difference of standard will be anything but an insuperable obstacle.

"There is one difficulty connected with the introduction of a gold standard into India which requires special notice. When the Indian mints are closed to the free coinage of silver, the currency of India will become a token currency of unparalleled magnitude without a reserve of gold, and this currency will be liable to have additions made to it by rupees being returned to India from the various foreign countries in which they now circulate, and by rupees being transferred from the hoards in which they are now held.

"Under such circumstances it may well be asked whether it will be possible for us to make the gold standard effective at once. In other words, will the rupee be worth as much as 1*s.* 4*d.* from this day forward?

"To this question I cannot give a confident answer, and I do not believe that it is possible for any one to do so. I have no doubt but that rupees will be returned

from foreign countries; but I do not think the amount so returned will be excessive. There is some risk of large quantities of rupees being thrown into the circulation from hoards, and I was formerly of opinion that the probability of this course being followed amounted to a serious danger. In recent years I have attached less importance to this aspect of the question. I think that the process of bringing rupees out of the hoards in which they lie would in any case be slow ; that it might never take place on any considerable scale; and that the risk would be greatly lessened if the business of establishing the gold standard be so managed as to maintain confidence and prevent panic. It may be that the gold standard can be made effective from the first, though it will not be secure until there is a considerable amount of gold in our treasuries and banks. Or it may be that the making of the gold standard effective, and the establishment of it on a secure basis, will involve a long and arduous struggle and necessitate heavy sacrifices. Time alone can show which view is correct. But, whatever the sacrifice and trouble of attempting to establish a gold standard may be, they must be faced, and the object we have in view is one which would, I submit, justify us in running even greater risks. Our present position is not such that we can avoid risk and loss by avoiding action, and an attempt on our part to permanently maintain the silver standard under present conditions would, in my opinion, involve peril to this country of the most serious character."

The Hon'ble MR. MACKAY said :—" I have had occasion to say a good deal on the Indian currency question during the past year or two, and I do not consider it necessary to say more at this time; but I cannot give an altogether silent vote on such an important Bill as that now before Your Excellency's Council.

" I am completely in accord with the provisions of the Bill just introduced by the Hon'ble Sir David Barbour, and with the greatest deference I venture to congratulate Your Excellency on having succeeded in bringing forward a measure which will have the effect not only of restoring the finances of the country to a satisfactory condition, but which will also impart to trade and commercial transactions that legitimate amount of certainty of which they have been deprived for the past twenty years. The measure at the same time relieves the country of that dread of additional and seriously disturbing taxation which has been weighing upon it for some time past. I look forward to a new era of prosperity and progress for India, and also to a great development of the resources of the country through the attraction which will now be given to British capital, and I look upon the assimila-

tion of the English and Indian standards of value as a removal of the only barrier which has hitherto prevented India from taking her place amongst the great commercial and industrial nations of the world. It would have been well for India had the step taken by Your Excellency's Government to-day been adopted fifteen years ago. In the interval not only has the natural progress of the country been retarded, but actual and serious injury has been inflicted on many important interests. However, it is useless to look back with regret on what might have been. We are content to accept the benefit, late as it is, which is now at last being conferred upon the country, and we look forward to the future with renewed hope and confidence."

The Motion was put and agreed to.

The Hon'ble SIR DAVID BARBOUR said:—"I now move that the Bill be passed, and in so doing I wish to add a few words, by way of caution and advice, to what I have already said. It is impossible to exaggerate the importance of the step which Her Majesty's Government and the Government of India have taken in deciding to establish a gold standard in India; but that step has been taken after the fullest discussion and with a deep sense of the responsibility which has been incurred. It is the intention of the Government of India to carry the measure to a successful issue if it be within their power to do so, and I trust that they will receive the unswerving support of the Indian public in the course which they have adopted—a course which was adopted in the belief that it was essential to the welfare of the whole Indian community.

"If it should happen, as it may, that the gold standard is effectively established in India from this day, I desire to urge that no undue elation should be exhibited, and that no precaution should be relaxed. The change of the Indian monetary standard is a measure which will have far-reaching and possibly unexpected results; and the gold standard cannot be considered to have been securely established in India until it has stood the test of time, and borne the shock of those financial storms which sometimes arise in the clearest skies. On the other hand, I would equally urge that we should not give way to alarm and despair if we should find ourselves confronted with serious and unexpected difficulties. The measure which we are engaged in carrying out has been adopted both with a full knowledge that serious difficulties might be encountered, and with a firm determination to overcome them if it be within our power to do so. The secure establishment of a gold standard in India may

be a work of time, and may involve heavy sacrifices ; but what other road to safety is open to us? We all know the troubles that have been brought upon this country during the last twenty years by the difference of standard between India and England. Are we prepared to face another such period, and are our troubles likely to be less if we go back to the old state of things after hastily abandoning the attempt to establish a gold standard?

" It has sometimes appeared to me that there were persons who held the opinion that the establishment of a gold standard would be a source of endless wealth to the Government of India. I know no good foundation for that belief. I hope and believe that the establishment of a gold standard will relieve the Government of India from an ever-growing cause of expenditure and from harassing fluctuations, and that it will promote the general welfare of the community. But the gold standard is not in itself a source of income, and it will be as necessary under a gold standard to practise the old-fashioned virtues of economy and prudence as it was under the silver standard, and the neglect to do so will involve the same consequences in both cases. I will even go further and say that economy is specially incumbent on the Government of India during the next few years. Confidence is a plant of slow growth in the financial world, and the people of India are apt to distrust anything that presents a novel appearance. If the public lose confidence in the success of our measures, the difficulties of establishing and maintaining the gold standard will be enormously increased.

" There are two lines of policy by which I think it is possible to promote confidence, and I earnestly commend them to those who may be entrusted with the management of the Indian finances during the next few years. The first is to take care that each succeeding year shall close with a substantial surplus, and the second is to avoid at all hazards any increase of the home charges.

" I am afraid there is not much originality in these recommendations, but they are the best which one-and-twenty years' experience of Indian finance enables me to offer."

His Excellency the PRESIDENT said:—" I should like to say a few words before I put the Motion to the Council.

" We shall not, I trust, be considered open to criticism because we are disposing of this question—one of the most important which has ever come before the Legislature of this country—without going through the usual forms

of our legislative procedure, and in the absence of those Additional Members of Council who do not happen to be in Simla. It will be obvious to every one that, for reasons upon which I need not dwell, the decision which has been arrived at must be carried out forthwith, and that a prolonged discussion of this Bill, or even its amendment in any essential particular, would not be admissible.

"We may, however, fairly contend that, if the question is being dealt with at this stage as if it were a matter of executive administration rather than one for the deliberate consideration of the Legislature, no question has ever been subjected to more thorough discussion out of doors than that with which we are concerned this morning. No debates in Council could be so instructive or so exhaustive of the subject as the discussions which have been proceeding in the public Press and at public meetings upon the currency question during the last year or two.

"There is, therefore, I venture to think, no occasion for travelling again over the old ground, or for arguing at length whether it was, or was not, safe to leave this country at the mercy of a fluctuating exchange, or whether the alleged advantages accruing to certain branches of our trade under a falling exchange were, or were not, greater than the troubles and difficulties which have already overtaken us, or than those further troubles and difficulties which would have beset us had exchange been allowed to fall to a still lower level.

"It was, I think, pretty well understood that the Government of India had some time ago arrived at a conclusion both as to the extent of the danger and as to the proper means of encountering it. The scheme, however, which we are laying before you does not rest upon our authority alone, and we are relieved from the necessity of justifying it, as we should have been expected to justify it, if it had been accepted by the Secretary of State merely upon our unsupported recommendation. We are in this position, that the proposal which we had laid before Her Majesty's Government a year ago is now accepted not only by them, but by that Committee of experts for whose verdict we have been waiting so impatiently during the last few months.

"When the composition of that Committee is considered; when we remember how many different schools of economical science were represented upon it; when we recollect how confidently it was predicted, even up to the last moment, that its members could not possibly agree in their conclusions, the fact that they have found it possible to sign with practical unanimity the Report

which will be published in to-day's Gazette shews, I cannot help thinking, conclusively how strong our case was, and gives to the recommendations of the Committee a weight and a force which may be described without exaggeration as overwhelming. I feel, therefore, that I should be merely wasting the time of the Council, without contributing anything to the information which will shortly be accessible to the public, if I were to attempt to add to that which will be found within the limits of Lord Herschell's Report. I will, therefore, merely venture to call the attention of those who will read that remarkable State document to one or two of the conclusions which it has established. And here let me, in the name of the Government of India, and I hope, I may say, in the name of the people of this country, express our obligation to Lord Herschell and to his colleagues for the patience and thoroughness with which they have investigated this intricate problem, and for the thoughtfulness with which they have taken into their consideration all the different aspects of a question in which so many interests and classes are concerned.

" The Report of the Committee will, in the first place, I think, render it no longer possible for any one to tell us, as we have sometimes been told, that this currency question was merely a grievance of the Indian services, or that the Government of India was interested in it only because we desired to extricate ourselves from the embarrassment occasioned by the instability of our finances. The Report of the Commission has, once and for all, shewn that far wider issues than these are involved—issues affecting not merely certain interests and certain classes of the community, but every interest and every class throughout the Indian Empire.

" Upon the question of the effects of fluctuations in exchange upon the commerce of India the Committee speak with no uncertain voice. They report that there seems to be a common agreement amongst those who differ in their views upon almost all other points that trade is 'seriously harassed' by these fluctuations, and, after a careful examination of the arguments adduced in support of this view, they express their opinion that 'it cannot be doubted that it would be well if commerce were free from the inconveniences of fluctuations which arise from a change in the relation between the standard of value in India and in countries with which her commerce is transacted.' And with regard to the deterrent effect of these fluctuations upon the investment of capital in India, they observe that 'there can be no doubt that uncertainty as to the interest which would be received for the investment, and as to the diminution

which the invested capital might suffer if it were desired to retransfer it to this country, tends to check British investments in India.' That is precisely the view which has been again and again urged with great ability by the Association over which our hon'ble colleague Mr. Mackay has presided, and which has done such excellent service in familiarizing the country with the details of the currency question. It is a view which, as I have on more than one occasion publicly said, has always seemed to me indisputably sound, and it is satisfactory to find that this view is unreservedly accepted by Lord Herschell and his distinguished colleagues.

" In another passage of the Report the Committee mention that the evidence before them points to the conclusion that during recent years the silver price of Indian produce has risen ; and they add that ' if, as experience shows, wages respond more slowly to the alteration in the value of the standard, this rise in the price of produce must have been prejudicial to the wage-earning classes.' They sum up this part of the case in these remarkable words :

'The above facts give reasons for believing that the recent fall in silver, coupled with the open mint, has led India to import and coin more silver than she needs, and the worst of the evil is that it is a growing one. Every unnecessary ounce of silver which has been, or is being, imported into India is a loss to India so long as silver is depreciating in gold value, for it is, *ex hypothesi*, not needed for present use, and it can be parted with only at a sacrifice. So far as the open mints attract unnecessary silver to India, they are inflicting a loss upon the people of the country, and benefiting the silver-producing countries at the cost of India.'

" While these are the effects which have been produced by fluctuations in the rate of exchange up to the present time, the Committee leave us in no doubt that the evils which we have hitherto experienced may be as nothing compared with those still in store for us if we are content to allow matters to drift.

" The Report dwells upon the large purchases of silver made by the Government of the United States under the Bland and Sherman Acts, and upon the fact that, in spite of these purchases, the price of silver has fallen to its present low level. They go on to express their opinion that, even if no change were to be made in the currency arrangements of the United States, the experience of the past would forbid the conclusion that the price of silver would be stationary at its present level. It would, they say, under these circumstances be imprudent to act on the assumption that no further fall

is possible, or even probable. It is, however, as we are all aware, a matter of notoriety that the early repeal of the Sherman Act is possible. The Committee dwell upon the heavy further fall which would certainly follow upon the repeal of the Act. They express their opinion that such a fall would not necessarily diminish the production of silver, and that under such circumstances 'it cannot be regarded as otherwise than within the reasonable bounds of possibility that the repeal of the Sherman Act might lead to a fall in the price of silver of even 6*d.* per ounce or more, and that there might be no substantial reaction from the level thus reached.' 'It may,' the Commissioners think, 'be said with practical certainty that such a fall would reduce the exchange to about a shilling per rupee, and would involve the necessity of raising at least Rx. 6,612,000 more than would be required by the Government of India to effect, even at the rate of exchange of 1*s.* 3*d.* per rupee, a remittance of the amount drawn last year, namely, £16,530,000 sterling, while the payment of £19,370,000 sterling, which is the present estimate of the drawings for 1893-94, would, at 1*s.* 3*d.* per rupee, require Rx. 30,992,000, and, at 1*s.* 0*d.* per rupee, Rx. 38,740,000, involving an increase of Rx. 7,748,000.'

"These are not the gloomy vaticinations of harassed and querulous Indian officials, but the deliberately expressed anticipations of such men as Mr. Leonard Courtney, so well known as Chairman of Committees of the British House of Commons, and a recent convert to bimetallism; Sir Thomas Farrer, for many years the distinguished Secretary of the Board of Trade, and an eminent Political Economist and Free Trader; and Sir Reginald Welby, the Secretary of the Treasury, an official of exceptional experience, who had, moreover, previously been a Member of the Committee which in 1878 issued an unanimous report against another proposal founded upon the closing of the Indian mints to the free coinage of silver.

"With these prospects before them, the Committee find themselves face to face with that dilemma to which reference was made in the discussion upon the Financial Statement at Calcutta in March of the present year. It is recognised that the Government of India has to choose between a change in its currency arrangements and the imposition of increased taxation, which, if the figures which I have just cited are to be taken as a guide, might be of the most formidable and onerous character. The possibility of increasing our revenue by means of additional taxes is examined by the Committee in a series of paragraphs which I earnestly recommend to the attention of those who would have us leave the currency alone and restore equilibrium between income and expenditure by means of additions to the burdens of the country.

"The Committee say that they are not in a position to determine whether the apprehensions which have been expressed to them that increased taxation cannot be resorted to without grave mischief are exaggerated or not, but they add this very significant observation:

'It is not easy to see how the burden of the added taxation which would be requisite to counterbalance the fall in exchange could be made to rest on those who might with the most justice be subjected to it, or how the added revenue could be provided, except in a manner opposed to sound principles of taxation.'

"I think, then, that I may sum up this part of the case by saying that it has now been established almost beyond controversy that to leave matters as they were meant for the Government of India hopeless financial confusion; for the commerce of India a constant and ruinous impediment; for the taxpayers of India the prospect of heavy and unpopular burdens; for the consumers of commodities a rise in the prices of the principal necessaries of life; and for the country as a whole a fatal and stunting arrestation of its development.

"My Hon'ble Financial colleague has explained to the Council the precise nature of the proposals of the Committee—proposals which we have thought it our duty to accept—and wherein they differ from those which we had ourselves submitted to the Secretary of State.

"The scheme of the Committee may be described as being not so much an alternative to our own as a modification of it. It is our scheme with the addition of safeguards and precautions—safeguards and precautions which appear to us to be wisely conceived. The feature which both schemes have in common is the essential feature of both; both are based on the closing of the mints to free coinage with the object of eventually introducing a gold standard into India upon terms as equitable as can be devised in the interests of all concerned, and with a minimum of disturbance to the business of the country.

"I may say, too, that both schemes have for their main object the prevention of a further fall in the value of coined silver rather than the enhancement of its value greatly beyond the present level. The difference between the Government of India and the Committee may be said to lie mainly in this, that the Committee have given more prominence than we had given to this aspect of the case. The keynote, so to speak, of the Report is to be found in the opinion recorded in paragraph 135, to the effect that 'to close the mints for the purpose of raising the value of the rupee is open to much more serious objection than to do so for the purpose of preventing a further fall.'

"It is then mainly with the latter object that the Committee advocate putting a stop to the free coinage of silver. That is a view which will, I cannot help thinking, be generally accepted as a just and reasonable one. The step recommended by the Committee will not produce any violent disturbance of values. It will, to use the words of Messrs. Farrer and Welby, 'not materially alter the present relations between debtor and creditor, but, on the contrary, prevent those relations being altered in the future by a further fall.'

"It has also this further advantage, that it provides an automatic means whereby it will be possible to prevent the closing of the mints from leading to a sudden and violent disturbance in the rate of exchange. I refer of course to the provision that any person may hereafter bring gold to the mints and obtain for it rupees at the rate of 1*s.* 4*d.* per rupee, and that gold may be tendered in payment of Government dues at the same rate, which is equal to one sovereign for Rs. 15. I need scarcely explain that the effect of this will be that, should exchange show a tendency to rise in the open market beyond the rate originally fixed; should it, for example, rise to a ratio giving, let us say, 1*s.* 4½*d.* as the equivalent of the rupee, or something less than Rs. 15 for the sovereign, it will at once become advantageous to bring gold to the mint, and to exchange it at the full rate of one sovereign for Rs. 15. In this manner, by a self-acting process, a rise beyond the level which has been provisionally indicated will be rendered impossible so long as that limit remains in force.

"These precautions will, I hope, go far to allay the apprehensions of those who mistrust the idea of any attempt by Government to increase artificially the value of its currency. Upon the other hand, the provisional ratio which the Committee has recommended, and which may, should circumstances hereafter require it, be raised, is sufficiently high to afford the Government of India immediate and substantial relief from its most pressing difficulties. Had the ratio been fixed lower in the first instance, I do not see how it would have been possible for us to avoid adding to the taxation of the Empire.

"I would venture to ask those who take exception to the enhancement of the gold value of the rupee from the rates prevalent lately to 1*s.* 4*d.* upon the ground that such a fluctuation involves a disturbance of the markets whether this small fluctuation is comparable in its importance with those to which we have had to submit during the last few years, and to which, if we were to leave matters alone, we should, no doubt, still be exposed.

1893.] [*The President.*]

"I will only add for the benefit of those who may not have leisure to study the Report that there should be no mistake as to the following points:

"First, although we propose to introduce a gold standard, no attempt is to be made to get rid of the silver currency to which the people of this country have been so long accustomed. The experience of other countries, as to which the Report has much to say, [and there is no part of it which is better worth reading,] has, the Committee tell us, shown that it has been found possible by the adoption of different systems to maintain a gold standard and a substantial parity of exchange with the gold-using countries of the world without a gold circulation, without a large stock of gold currency, and even with a silver currency not legally convertible into gold. The Committee admit with the fairness which characterizes their Report that in no one of the countries of which they have cited the example has silver been so largely and so exclusively used as in India, and there can be no doubt that, as Sir Thomas Farrer and Sir Reginald Welby have put it in their separate Report, the effect of this measure will be to give us a token currency of unparalleled magnitude. The Committee sum up this part of the case by the very reasonable observation that, although the cases of Scandinavia, Holland, Canada, the Dutch East Indies, and the countries of the Latin Union are not in all respects applicable as precedents to the case of India, the experience derived from the currencies of those countries is not without value as bearing on the questions which we have to consider.

"In the second place, it will be observed that for the present no attempt will be made to fix the legal tender price for gold. In this respect also the proposals of Lord Herschell's Committee differ from ours for reasons which have been explained by the Hon'ble Financial Member.

"Thirdly, it will be seen that the ratio recommended by the Committee is fixed provisionally and not permanently, and that the provisional ratio is well within the limits of recent variations.

"I might say more, but I feel that I cannot add usefully to what has been already said with an authority to which I cannot pretend in the Report of the Committee. I will make one other observation only. It is true that our responsibility in this matter has been, as I said at first, to some extent diminished by the fact that the measure before the Council has not only our support, but that

of Her Majesty's Government and that of the Members of the Herschell Committee, but we do feel, nevertheless, very deeply the gravity of the step which we are about to take. For myself, I may say that I hold very strongly that all attempts to give a fictitious value by legislation to money or commodities are upon principle to be deprecated. The less Government has to do with such enterprises, the more we can trust to the ordinary influences of demand and supply, and to the open traffic of the markets, the better for all concerned. But a time may come when inaction is no longer possible, and when a Government would be unworthy the name of a Government if it were to stand aside and leave things to take care of themselves. We believe that such a time has come in India; we believe with Lord Herschell's Committee that a further fall in the gold value of silver is probably imminent, and that such a fall would have disastrous effects for this country if we were still to allow its mints to remain open for the receipt and coinage of any quantity of a depreciated and discredited metal. We know that other countries have discarded that metal and have prospered, and we see no reason why we should be precluded from following their example. We have borne long enough with a state of things which is becoming more intolerable with every year that passes, and which in all human probability would have become more intolerable still. We feel that, holding these views, we should be culpable if we did not attempt to place the finances of India on a more stable basis. We admit the immense difficulty of the problem and the uncertainties by which it is surrounded, and we offer this solution not as one which is ideally perfect, but as the best which can be devised.

"We are hopeful that it will afford relief not to ourselves merely or to our employés, but to the country as a whole. We are, however, far too well aware of the intricacy of the problem and of the risks attending such an experiment as that which we are about to try to take this momentous step with a light heart. In a case of this kind, the most obvious economic and scientific laws do not always prevail. You may provide for all the known factors in your calculation only to find that there are others which you have overlooked or been unable to estimate. But, in spite of these misgivings, we earnestly hope that our proposals may be fruitful of good; that the commerce of India may be relieved from an impediment which has retarded its progress; that the Government of India may be enabled to meet its obligations without adding to the burdens of the taxpayer; and that capital will flow more freely into this country without the adventitious stimulus which we have hitherto been unable to refuse. We trust, finally, that in process of time sufficient reserves of gold may be accumulated to enable us to render our gold standard effective, and thereby to complete the great change towards which we are taking the first steps to-day.

1893.] [*The President.*]

"Time only can show whether all these hopes will be fulfilled or be disappointed. In the meanwhile, I earnestly trust that even those who regard this measure with most suspicion or reluctance will give us credit for having had the courage of our opinions, and for having taken the only course which seemed to us likely to relieve this country of a burden which has, we believe, seriously affected its welfare in the past, and which would, unless we had intervened, have still more seriously paralyzed her energies and retarded her advance in the future."

The Motion was put and agreed to.

The Council adjourned to Thursday, the 20th July, 1893.

S. HARVEY JAMES,

SIMLA; *Secretary to the Government of India,*

The 26th June, 1893. *Legislative Department.*

[G. C. F.]

G. C. Press, Simla—No. 97 L. D.—1-7-93.—496.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Acts of Parliament 24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14.

The Council met at Viceregal Lodge, Simla, on Thursday, the 20th July, 1893.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G., G.M.S.I., G.M.I.E., *presiding*.
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir P. P. Hutchins, K.C.S.I.
The Hon'ble Sir D. M. Barbour, K.C.S.I.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble W. Mackworth Young, C.S.I.
The Hon'ble J. L. Mackay, C.I.E.

NEW MEMBER.

The Hon'ble MR. MACKAY took his seat as an Additional Member of Council.

POSTPONEMENT OF BILLS.

His Excellency THE PRESIDENT said:—"I understand that the three Bills entered on the notice paper are not quite ready for introduction. It will, therefore, be convenient that they be deferred until the next Meeting of the Council, and I propose that we should adjourn to this day fortnight."

The Council adjourned to Thursday, the 3rd August, 1893.

S. HARVEY JAMES,
Secretary to the Government of India,
Legislative Department.

SIMLA;
The 21st July, 1893.

G. C. Press, Simla.—No. 158 L. D.—24-7-93.—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Acts of Parliament 24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14.

The Council met at Viceregal Lodge, Simla, on Thursday, the 3rd August, 1893.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G., G.M.S.I., G.M.I.E., *presiding*.
His Honour the Lieutenant-Governor of the Punjab, K.C.S.I.
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir P. P. Hutchins, K.C.S.I.
The Hon'ble Sir D. M. Barbour, K.C.S.I.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. L. Mackay, C.I.E.

EXCISE ACT, 1881, AMENDMENT BILL.

The Hon'ble SIR DAVID BARBOUR moved for leave to introduce a Bill to amend the Excise Act, 1881. He said:

"It is proposed to amend the Act in two respects, and both the amendments are very simple and not likely to meet with opposition.

"Under section 7 of the Act as it now stands the Local Government may from time to time fix the rate of duty to be levied on spirit passed out of a distillery licensed under section 5 of the Act or established under section 6.

"It has been held, and no doubt correctly held, that under the law as it now stands the Local Government can only fix one rate of duty for spirit passed out of such distillery, no matter what the destination of the spirit may be. This state of things is found to produce inconvenience, as spirit may be passed out for consumption in another province or in a different district where the duty on spirit is either higher or lower than it is in the province or district where the distillery is situated. To meet this difficulty it is proposed to modify the Act in such manner as to permit the Local Government to fix different rates of duty according to the place to which the spirit is removed for consumption.

"A difficulty has also arisen in Upper Burma in connection with the import of spirit and other exciseable articles from beyond the frontier. There is at present no power to impose a duty on the import of such spirit. To meet this difficulty power is given to the Governor General in Council to impose, by notification in the Gazette of India, such duty as may be considered proper on any spirit, fermented liquor or intoxicating drug brought by land from beyond the limits of British India into any territory to which the Excise Act, 1881, extends."

The Motion was put and agreed to.

The Hon'ble SIR DAVID BARBOUR also introduced the Bill.

The Hon'ble SIR DAVID BARBOUR also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and that the Bill be taken into consideration on the 10th instant.

The Hon'ble SIR ALEXANDER MILLER suggested that the Bill should be taken into consideration on the 17th instant. He thought that the Bill might require to be looked over, and that some discussion with the Hon'ble Member about a point which he had already called his attention to might be advisable.

The Motion that the Bill be taken into consideration on the 17th instant was put and agreed to.

INDIAN TARIFF ACT, 1882, AMENDMENT BILL.

The Hon'ble SIR DAVID BARBOUR also moved for leave to introduce a Bill to amend the Indian Tariff Act, 1882, as amended by subsequent Acts. He said:

"The proposed amendments are of a very simple nature.

"In 1888 the duty on salt in Burma was raised from three annas a maund to one rupee a maund. Salted fish is largely produced and consumed in Burma, and the raising of the rate of duty on salt unfairly handicaps the local manufacture as compared with manufacture in countries where no duty on salt is levied.

"The extent to which the local manufacture is handicapped is shown by the fact that since the raising of the salt-duty in 1888 the quantity of dry salted fish annually imported has more than doubled, and a new trade, the

1893.] [*Sir David Barbour.*]

import of wet salted fish or *ngapi*, has come into existence. Last year nearly 14 million pounds of wet salted fish were imported. By the Bill which I am now about to introduce power is given to the Governor General in Council to impose a duty on imported salted fish not exceeding twelve annas a maund. The imposition of such a duty will remove the disadvantage under which the local manufacture at present labours, and it will also prevent the import of salt free of duty in the form of salted fish.

"Advantage has been taken of the opportunity to remove a doubt which has arisen as to the interpretation of the Tariff Act in another respect. As this Council is aware, an export-duty is now chargeable upon the export of rice. Doubts have arisen as to whether this duty is leviable on rice-flour or ground rice, These doubts will be removed by specifically declaring rice-flour or ground rice to be liable to payment of duty."

The Motion was put and agreed to.

The Hon'ble SIR DAVID BARBOUR also introduced the Bill.

The Hon'ble SIR DAVID BARBOUR also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and that the Bill be taken into consideration on the 10th instant. He explained that it was desirable that the Bill should be taken into consideration on this date, because, if any great delay were to occur in the passing of the Bill, large quantities of salt-fish would be imported in order to escape the duty.

The Motion was put and agreed to.

INDIAN PORTS ACT, 1889, AMENDMENT BILL.

The Hon'ble SIR DAVID BARBOUR also moved for leave to introduce a Bill to amend the Indian Ports Act, 1889. He said:

"There is a group of small ports in the Balasore District in Bengal, and the maximum rate of port-dues payable is four annas per ton, with a special exemption in the case of mail-steamers and coasting-vessels, which are not chargeable with port-dues oftener than once in sixty days.

"It so happens that the trade of these ports is chiefly with Calcutta, small vessels making frequent trips to and from Calcutta.

"Under these circumstances a limit of sixty days is quite unsuitable, and the port-dues amount only to a very small fraction of the yearly expenditure which is incurred in keeping up the ports.

[*Sir David Barbour; Sir Alexander Miller; Sir Philip Hutchins.*] [3RD AUGUST, 1893.]

"Before the passing of the Act of 1889 the limit was thirty days, and not sixty days. It is now proposed to restore the old limit of thirty days. Even with the reduced limit the receipts will not nearly cover the expenditure, and the balance of expenditure must, as before, be met from the Provincial revenues of the Government of Bengal."

The Motion was put and agreed to.

The Hon'ble SIR DAVID BARBOUR also introduced the Bill.

The Hon'ble SIR DAVID BARBOUR also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Calcutta Gazette in English and in such other languages as the Local Government thinks fit.

The Motion was put and agreed to.

POSTPONEMENT OF BILLS.

The Hon'ble SIR ALEXANDER MILLER moved for leave to postpone, until the next meeting of the Council, his Motion for leave to introduce a Bill relating to the Tributary Mahals of Cuttack. He explained that the Bill had not been placed in his hands until he had entered the Council room. He had therefore been unable to see what was in it, or whether it was in the form in which he should like to introduce it.

The Motion was put and agreed to.

The Hon'ble SIR PHILIP HUTCHINS asked that the Motion down in his name, to ask for leave to introduce a Bill to amend the Code of Criminal Procedure and the Indian Penal Code, might be allowed to stand over. He explained that there was some difficulty as to the best way of carrying out the objects of the Bill, and it was desirable to have a little more time for discussion as to the precise form which it should take.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 10th August, 1893.

S. HARVEY JAMES,

Secretary to the Government of India,

Legislative Department.

SIMLA;

The 4th August, 1893.

G. C. Press, Simla.—No. 190 L. D.—4-8-93.—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Acts of Parliament 24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14.

The Council met at Viceregal Lodge, Simla, on Thursday, the 10th August, 1893.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G., G.M.S.I., G M.I.E., *presiding*.
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir P. P. Hutchins, K.C.S.I.
The Hon'ble Sir D. M. Barbour, K.C.S.I.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. L. Mackay, C.I.E.

INDIAN TARIFF ACT, 1882, AMENDMENT BILL.

The Hon'ble SIR DAVID BARBOUR moved that the Bill to amend the Indian Tariff Act, 1882, as amended by subsequent Acts, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble SIR DAVID BARBOUR also moved that the Bill be passed.

The Hon'ble SIR ALEXANDER MILLER said that he should like to make a remark as to the rate of duty upon wet and dried salt-fish. He thought that it was worth consideration whether there ought not to be power to charge different rates of duty for wet and dried salt-fish, as the weight of salt in the one case was very different from what it was in the other. It was not clear that the provision in the schedule was sufficient for this purpose.

The Hon'ble SIR DAVID BARBOUR said that he did not think that any special provision in the Bill with this object was necessary. There was no such difference in the case of dry salted fish and *gnapi* as to make separate rates of duty necessary. Besides, the point had been duly considered by the local

authorities who were in the best position to form a judgment in such matters, and the Chief Commissioner recommended the same rate of duty on both articles.

The Hon'ble SIR ALEXANDER MILLER remarked that he knew something of the process of salting salmon, and he was aware that salt salmon in its wet state weighed a great deal more relatively to the amount of salt used than it did when it was dry. He presumed that the same was the case in respect to all other kinds of fish.

The Hon'ble SIR PHILIP HUTCHINS said he shared the doubt, expressed by the Hon'ble Sir Alexander Miller, as to the power of the Government under the Bill as it stood to impose a differential duty, but he thought that the difficulty could be readily met by adding the words "or rates" after "rate". He was not prepared to say that there was any necessity for such a differential rate, but what had fallen from the Hon'ble Sir Alexander Miller seemed to show that it might possibly become desirable, and the addition of these words would enable the Government to impose it while allowing them complete discretion to do so or not. With His Excellency's permission he would therefore move the following amendment in the Bill:—

that the words "or rates" be inserted after the words "such rate" and before the words "of duty" in the fifth column of the addition to the schedule proposed to be inserted by section 1 of the Bill.

The Hon'ble SIR DAVID BARBOUR said that he was unable to accept the amendment, because the Bill had been considered by the Government of India in communication with the Chief Commissioner of Burma and the local authorities, and there was not a particle of evidence to show that separate rates of duty were necessary. The evidence was all in the other direction. It might of course be said that the amendment was not likely to do any harm; but this seemed to him an insufficient reason for making an alteration in the Bill at the present stage. As a matter of principle it appeared to him that there were serious objections to amendments being moved at the last moment and without notice, on purely speculative grounds, by Members of Council who had no personal knowledge of the subject and who had never even seen the papers in which the question was discussed.

The amendment was put and agreed to.

1893.] [*Sir David Barbour.*]

The Hon'ble SIR DAVID BARBOUR moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

INDIAN PORTS ACT, 1889, AMENDMENT BILL.

The Hon'ble SIR DAVID BARBOUR also moved that the Bill to amend the Indian Ports Act, 1889, be taken into consideration on the 7th September next. He explained that the Bill was a small one, and that he did not anticipate any objection to it and did not propose to refer it to a Select Committee unless there should be some special reason for doing so.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 17th August, 1893.

S. HARVEY JAMES,

Secretary to the Government of India,

Legislative Department.

SIMLA;

The 11th August, 1893.

G. C. Press, Simla.—No. 212 L. D.—11-8-93.—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Acts of Parliament 24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14.

The Council met at Viceregal Lodge, Simla, on Thursday, the 17th August, 1893.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G., G.M.S.I., G M.I.E., *presiding*.
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir P. P. Hutchins, K.C.S.I.
The Hon'ble Sir D. M. Barbour, K.C.S.I.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. L. Mackay, C.I.E.

EXCISE ACT, 1881, AMENDMENT BILL.

The Hon'ble SIR DAVID BARBOUR moved that the consideration of the Bill to amend the Excise Act, 1881, be postponed to the next meeting of the Council. He explained that certain difficulties had arisen in connection with the Bill which would require further consideration, and that it was desirable to postpone it.

The Motion was put and agreed to.

TRIBUTARY MAHALS OF CUTTACK BILL.

The Hon'ble SIR ALEXANDER MILLER moved for leave to introduce a Bill to make provision for certain matters connected with the Tributary Mahals of Cuttack. He said:—

"Up to about the year 1888 it had never been declared whether the Tributary Mahals of Cuttack were, or were not, British territory; but, apparently ever since the cession of Orissa to the Company, they have been administered by

the Government of Bengal under certain Regulations, and under an Act of the Governor General in Council—Act XX of 1850—especially applying to them. However, in 1887, the Government of India came to the conclusion that they ought not to be considered as in British India, and on the 12th April, 1888, their view was confirmed by a Despatch from the Secretary of State; and then it became necessary to make some arrangements for their future administration. This has been hanging, I may say, ever since the 16th July, 1888, when Sir Andrew Scoble wrote an opinion in which he said that by legislation we ought to provide for the validation of past acts of administration, for the repeal of the enactments I have mentioned, and for any subsidiary measures that might be necessary. The matter has, practically, been settled lately in great part by the issue of sanads to the Chiefs of these Mahals; but, in order to put things perfectly right, it is thought desirable to repeal the Act of the Governor General in Council which I have mentioned, and the enactments under which the Mahals have been administered, and to validate expressly all the acts of administration which have been done for the last fifty years, or more, under these enactments.

"We have taken advantage of the opportunity to introduce a provision, proposed by the Government of Bengal, and which, under the peculiar circumstances of this case, we thought might be accepted, although I confess it goes further than I should like to admit as a general rule, that all sentences of British Courts, and certain specified sentences by Native Courts, in the Mahals, may be carried into effect in British India.

"The Bill which I propose to introduce is not exactly in the words in which Members who have copies in print will find it; but the variations are not very material, and will probably be considered best after the Bill has been circulated."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also introduced the Bill.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Calcutta Gazette in English and in such other languages as the Local Government thinks fit.

The Motion was put and agreed to.

BENGAL SECRETARIAT LIBRARY

1893.] [*Sir Philip Hutchins.*]

CODE OF CRIMINAL PROCEDURE, 1882, AND INDIAN PENAL CODE AMENDMENT BILL.

The Hon'ble SIR PHILIP HUTCHINS moved for leave to introduce a Bill to amend the Code of Criminal Procedure, 1882, and the Indian Penal Code. He said:—

"I make this Motion at the request of the Hon'ble Dr. Lethbridge. Before he went on leave he handed me a draft, the lines of which have been generally adhered to in the Bill which I now ask leave to introduce. I propose to make it applicable to the crime of murder as well as to that of dacoity; but beyond this there is only one alteration of any importance which I have ventured to make in the draft which my hon'ble friend had prepared, and to that I will draw attention later on.

"Hon'ble Members are probably aware that it has recently been found necessary to take energetic measures for the suppression of dacoities and other organized offences on or near the boundaries between our North-West and Central Provinces and the States of Central India and Rajputana. In the course of these operations a serious obstacle has been encountered. It has been ascertained to be a common practice for gangs of dacoits or individual malefactors, after committing crimes within the States, to come across the border for shelter and remain concealed in British territory with the connivance of British subjects. Under our Penal Code, as it now stands, a person who harbours and protects these brigands cannot be touched, however notorious they may be, and however atrocious the crimes which they have committed or of which they stand accused. Thus the officers of justice are powerless unless they can succeed in laying hands on the criminal himself, and there are many, bound to him by ties of friendship or self-interest, who are leagued together to prevent his apprehension.

"Harbouring or concealing an offender is indeed punishable under sections 212 and 216 of the Code; but an offender can only mean a person who has committed an offence, and the word 'offence' is defined in the Code in so technical a manner that it does not cover any kind of crime committed in a Native State. The crime may be one which, if it had occurred in British India, would have rendered the perpetrator liable to a long term of imprisonment, or even to transportation for life or the gallows; but, as it has been committed outside British India, it is not an offence, and consequently the man who committed it is not an offender, and other people may shelter or conceal him with impunity.

"It does not seem necessary to enlarge on the danger or inconsistency of this state of things. Murders and organized dacoities are equally dangerous to

society and deserving of punishment, wherever committed; and it is equally necessary that others should be deterred from holding out to the murderer or the dacoit such comfort or assistance as would in England constitute them accessories after the fact.

"The main object of this Bill then is to extend the meaning of the word 'offence' in certain sections of the Penal and Procedure Codes so as to include acts committed outside British India which amount to murder or dacoity—I include in the latter such acts as making preparation or attempting to commit dacoity. I do not, however, propose to make these acts *substantive* offences, punishable under the Penal Code; but merely to declare that they shall be *deemed* to be offences, equally with similar acts committed in British India, for the purpose of bringing to justice persons who in British India are guilty of criminal acts or omissions in relation to them.

"The sections of the Code of Criminal Procedure affected by the Bill are 44 and 45, which impose a legal obligation to report the commission of certain specified offences, of which murder and dacoity are two. Correlative to these sections of the Procedure Code are sections 176, 177, 201, 202 and 203 of the Penal Code, which provide for the punishment of persons who, in breach of this obligation, either omit to give information at all, or substitute information which is false or misleading; section 201 also deals with the offence of causing a disappearance of evidence in order to screen the offender. Lastly, there are the two sections already mentioned, 212 and 216, which are aimed at harbourers. In section 216, which relates to the harbouring of escaped prisoners or offenders specifically ordered to be arrested, the need for including offences in Foreign States has already been recognized by the Legislature.' By Act X of 1886 a clause was added to this section, the effect of which is to give the word 'offence' even a wider signification than that which is now desired. According to that clause the word includes not merely murders and dacoities committed out of British India, but every sort of crime so committed for which extradition could be obtained. Subject, however, to anything which may be advanced to the contrary by Local Governments or others, it seems expedient that the law should be uniform in this respect; and accordingly, in section 5 of the Bill, I have cut down the clause framed in 1886 so as to include only murders and dacoities. Should the Select Committee eventually decide that the clause of 1886 should be retained, then I think it will have to be considered whether the other amendments made by this Bill should not be assimilated thereto, and extended so as to cover all crimes mentioned in the Extradition and Fugitive Offenders Acts. Possibly a middle course may be found preferable, and the term 'offence' everywhere extended to

murders, dacoities and a few other definite heinous offences. I specially invite all Local Governments to express their opinions on this point. It is curious that, when section 216 was thus enlarged in 1886, the necessity for inserting a similar clause in section 212, which deals with the harbourers of offenders not yet arrested or ordered to be arrested, was overlooked.

"The other main object of the Bill which I shall now lay on the table is to explain what is meant by harbouring, and to provide for the punishment of persons affording the same sort of protection or assistance to what I may call prospective dacoits—to gangs, that is to say, which have assembled together to commit dacoity but have not yet carried out their purpose. It is proposed to declare that the supplying of offenders with food, clothes, arms or ammunition, or giving them any sort of assistance to enable them to avoid apprehension, amounts to 'harbouring'.

"I must not conclude without acknowledging the cordial manner in which the Rulers of the States chiefly concerned are co-operating with our own officers in this matter. The object of this Bill is to protect their subjects and suppress brigandage in their territory; but the converse state of things has given rise to similar difficulties, marauders from British territory finding shelter and protection from confederates in the States. I am glad to say that the Darbars are taking energetic measures to prevent this, and, when this Bill becomes law, it will enable our officers on their part to fulfil their reciprocal obligations in regard to the States."

The Motion was put and agreed to.

The Hon'ble SIR PHILIP HUTCHINS also introduced the Bill.

The Hon'ble SIR PHILIP HUTCHINS also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 31st August, 1893.

S. HARVEY JAMES,
Secretary to the Government of India,
Legislative Department.

SIMLA;
The 18th August, 1893.

G. C. Press, Simla.—No. 222 L. D.—18-8-93.—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Acts of Parliament 24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14.

The Council met at Viceregal Lodge, Simla, on Thursday, the 31st August, 1893.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G., G.M.S.I., G.M.I.E., *presiding*.
His Honour the Lieutenant-Governor of the Punjab, K.C.S.I.
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir P. P. Hutchins, K.C.S.I.
The Hon'ble Sir D. M. Barbour, K.C.S.I.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble J. L. Mackay, C.I.E.

QUESTION AND ANSWER.

The Hon'ble MR. MACKAY asked:—

"Whether representations have been made to the Government of India by various public bodies during the past few weeks complaining of the action of the Secretary of State in not fixing some minimum for the sale of his Council drafts during the present dull season, so as to give a basis on which commercial transactions might be arranged. If so, and in view of the serious losses which have been incurred and the disorganisation to trade which has arisen through the violent fluctuations in exchange consequent upon the Secretary of State letting his Bills go as low as 1*s.* 3¼*d.* in the middle of August, after having sold them for 1*s.* 4*d.* in the end of June, I would ask whether any action has been taken upon the representations received by Government, and whether the communications, if any, which have passed between the Government of India and the Secretary of State upon the subject will be published for general information, and, if so, when."

The Hon'ble SIR DAVID BARBOUR replied :—

"It is the fact that representations have been made to the Government of India during the past few weeks regarding the action of the Secretary of State in not fixing some minimum for the sale of his Council drafts during the present dull season.

"These representations have been considered by the Government of India, and communications have passed by telegram between the Secretary of State and the Government of India. The correspondence is not yet closed, and could not properly be published at the present time.

"The Government of India wish to add that misapprehension appears to exist in some quarters regarding their recent action in connection with the Indian currency.

"The avowed object of the Government of India in closing the Indian mints to the free coinage of silver was to alter the Indian monetary standard from silver to gold; but it was expressly stated in this Council on 26th June last that it was not intended for the present to do more than stop the free coinage of silver, and, as a provisional arrangement, to provide for the issue of rupees at the mints in exchange for gold at the rate of 16*d.* per rupee.

"The object of providing for the issue of rupees in exchange for gold at 16*d.* the rupee was to prevent any great and sudden rise of exchange, and the Government did not undertake either to establish 16*d.* per rupee as the permanent ratio of exchange between gold and the rupee or to establish any other permanent ratio immediately or within any specified time.

"The words which I used in dealing with this matter were as follows :—

'The making of gold coins legal tender, the settlement of the permanent rate of exchange between gold and the silver rupee, and the other measures necessary for the final and effective establishment of a gold standard in India will be provided for by future legislation and in the light of future experience.'

"It would have been very satisfactory if exchange had risen to 16*d.* as soon as the mints were closed, and had remained permanently at that figure; and no doubt this expectation was entertained in some quarters, and business transactions were entered into in the hope that this would be the case. The Government of India regret that the sudden rise in exchange which took place after 26th June and the subsequent fall should have caused so much loss and

inconvenience to the mercantile public, and they deeply sympathise with those persons who find the anxieties which are inseparable from business greatly aggravated by the uncertainty which prevails as to the future course of exchange.

"At the same time the Government of India must point out that they gave no encouragement to the idea that, as the result of the preliminary measures taken on 26th June, the gold standard would be at once, and effectively, established in India either at the ratio of 16*d.* for the rupee or at any other ratio.

"The words which I used on 26th June were as follows:—

'It may be that the gold standard can be made effective from the first..... Or it may be that the making of the gold standard effective, and the establishment of it on a secure basis, will involve a long and arduous struggle and necessitate heavy sacrifices. Time alone can show which view is correct.'

"What has actually happened is that there was a large rise in exchange immediately after the closing of the Indian mints. This rise was speculative and not justified by any change in the conditions which regulate exchange; in point of fact the conditions were, and are still to a great extent, unfavourable to any immediate and serious rise in exchange of a permanent nature. The Indian mints were closed at the slack season of the year; there had been very heavy imports of silver immediately before, and large transfers of rupee paper to London which is believed to be now returning to India, while the drawings of the Secretary of State are exceptionally heavy for the current year.

"The Government of India regret the fluctuation and the evils to which it has given rise, but in their opinion nothing that has occurred since June last affords any ground for holding that the gold standard cannot be effectively established in India.

"On the contrary, it was from the first foreseen that difficulties might be encountered and would have to be overcome in carrying out the measure. The actual occurrence of these difficulties should not be a ground for discouragement, especially when it is remembered that the time and circumstances have been especially unfavourable, and have tended to retard the full operation of the measure.

"There is, therefore, reason to hope that the difficulties which have arisen will prove to be temporary and will in time disappear."

EXCISE ACT, 1881, AMENDMENT BILL.

The Hon'ble SIR DAVID BARBOUR moved that the Bill to amend the Excise Act, 1881, be taken into consideration. He said :—

"The Bill is a very simple one, and merely provides for the equalising of the rates of duty where inequalities operate to the prejudice of any competing manufacturer in India. For instance, the duty on rum on removal from a distillery is four rupees a gallon in the North-Western Provinces and five rupees in Bengal. Much rum goes from the North-Western Provinces to Bengal for consumption, and it seems clear that, so far as the Government can help, no undue preference, by way of taxation, should be given to manufacturers in the former territory over those in the latter. Section 2 is intended to cover the case of the importation by land of liquors, and possibly of drugs not covered by the Opium Act, 1878, from places beyond the limits of India."

The Motion was put and agreed to.

The Hon'ble Sir DAVID BARBOUR also moved that after section 3 of the Bill the following section be inserted, namely :—

Amendment of section 36, Act XXII, 1881.

"4. (*1*) To clause (*c*) of section 36 of the said Act the word 'or' shall be added.

(*2*) After the said clause the following clause shall be added, namely :—

'(*d*) without payment of such duty (if any) as may for the time being be payable in pursuance of a notification under section 23A, brings any spirit or fermented liquor or intoxicating drug into any territory to which this Act extends.'

(*3*) In the last paragraph of the said section 36, the words 'or intoxicating drug' shall be inserted between the words 'fermented liquor' and the words 'together with'."

He said :—"I may explain that the only object of this amendment is to make it a punishable offence to smuggle spirit, fermented liquor or intoxicating drugs brought by land from beyond the limits of India into territory in which the Act is in force. It was by an oversight that this provision was not made in the original Bill. The Bill now provides for the imposition of the duty on such articles, and the proposed amendment enacts that any violation of that provision shall be punishable by the usual penalty for smuggling under the Bill."

The amendment was put and agreed to.

1893.] [*Sir David Barbour; Sir Alexander Miller.*]

The Hon'ble SIR DAVID BARBOUR also moved that the Bill, as amended, be passed. He explained that there had been no opposition raised by the public to the Bill and he now proposed that it be passed as amended.

The Motion was put and agreed to.

TRIBUTARY MAHALS OF CUTTACK BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill to make provision for certain matters connected with the Tributary Mahals of Cuttack be taken into consideration on the 21st September next. He said :—"The Bill is purely a formal one and I do not think it will be necessary to refer it to a Select Committee, but it has been circulated and the answers of the Bengal Government and the High Court at Calcutta are not due till the 21st September next, and it cannot be taken into consideration before that time."

The Motion was put and agreed to

The Council adjourned to Thursday, the 21st September, 1893.

S. HARVEY JAMES,
Secretary to the Government of India,
Legislative Department.

SIMLA;
The 1st September, 1893.

G. C. Press, Simla.—No. 277 L. D.—1-9-93.—316.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Acts of Parliament 24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14.

The Council met at Viceregal Lodge, Simla, on Thursday, the 21st September, 1893.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G., G.M.S.I., G M.I.E., *presiding.*
His Honour the Lieutenant-Governor of the Punjab, K.C.S.I.
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir P. P. Hutchins, K.C.S.I.
The Hon'ble Sir D. M. Barbour, K.C.S.I.
The Hon'ble Sir A. E. Miller, Kt., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.

TRIBUTARY MAHALS OF CUTTACK BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill to make provision for certain matters connected with the Tributary Mahals of Cuttack be taken into consideration. He said that, as he had explained the other day, the Bill was a very short and practically a formal Bill, and he now thought that there was no necessity for putting Hon'ble Members to the trouble of referring it to a Select Committee.

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also moved that the following amendments be made in the Bill, namely:—

(*1*) that the expression "Tributary Mahals of Orissa" be substituted for the expression "Tributary Mahals of Cuttack" in the title, preamble and sections 1 and 3 of the Bill;

(*2*) that the expression "Tributary Mahal in Orissa" be substituted for the expression "Tributary Mahal in Cuttack" in clause (*a*) of sub-section (*1*) of section 4 of the Bill.

[*Sir Alexander Miller.*] [21ST SEPTEMBER, 1893.]

He said:—"The Bengal Government have represented that the expression 'Tributary Mahals of Cuttack' is an antiquated one, and that these places are better known as the 'Tributary Mahals of Orissa.' They desire, therefore, that the word 'Orissa' be substituted for the word 'Cuttack', wherever it occurs in the Bill.

"That is, I think, the shortest way of stating the amendments."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 5th October, 1893.

S. HARVEY JAMES,
Secretary to the Government of India,
Legislative Department.

SIMLA;
The 22nd September, 1893.

G. C. Press, Simla.—No. 321 L. D.—22-9-93.—316.

Abstract of the Proceedings of the Council of the Governor General of India assembled for the purposes of making Laws and Regulations under the provisions of the Acts of Parliament 24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14.

The Council met at Viceregal Lodge, Simla, on Thursday, the 12th October, 1893.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G., G.M.S.I., G.M.I.E., *presiding.*

His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.

The Hon'ble Sir P. P. Hutchins, K.C.S.I.

The Hon'ble Sir D. M. Barbour, K.C.S.I.

The Hon'ble Sir A. E. Miller, KT., Q.C.

The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.

The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.

The Hon'ble J. L. Mackay, C.I.E.

QUESTIONS AND ANSWERS.

The Hon'ble MR. MACKAY put the following questions :—

1. Is it the case that only 2,601,241 private inland telegrams were transmitted in India during the year ending 31st March 1892, about half of which were at the deferred or eight annas per eight words rate ?

2. Whether in view of the enormous population in India, amounting to something like 280 million souls, and the fact that more than 54 million inland telegrams are transmitted annually in the British Isles, where the rate is sixpence per twelve words, including address, with a population of only 37 millions, the question of introducing the four anna rate for deferred messages, with a corresponding ratio for ordinary and urgent telegrams, so as to bring the telegraph within reach of a really tangible portion of the masses, is engaging the attention of the Government of India, and, if so, whether the lower tariff is likely to be introduced, and, if so, when ?

The Hon'ble SIR CHARLES Pritchard replied :—

1. Yes.

2. A scheme for introducing a four-anna tariff has been under the consideration of the Government of India, and has been deferred because the present position of the Imperial finances is not such as would justify the acceptance of the heavy initial capital expenditure involved, together with the loss of revenue that might in the first instance be expected to result from the proposed reduction of the tariff.

3. Whether the telegraph system in India, of which Government hold the monopoly, is now giving a return, when State messages are paid for, of 4½ per cent. on the whole capital expenditure, including the amount spent on military and political lines, after paying all working expenses ?

3. The latest available figures, *i.e.*, those for the year 1892-93, show that the return is 4·46 per cent.

THE INDIAN FISHERIES BILL.

The Hon'ble SIR PHILIP HUTCHINS moved for leave to introduce a Bill to provide for certain matters relating to Fisheries in British India. He said :—

"The official literature on the subject of legislating for the protection of fish in India is very extensive. I have in my hand a blue-book of 250 pages which covers a period of three years only, from 1887 to 1890; but the subject first attracted attention nearly twenty years before that. I do not propose, however, to inflict on this Council even a brief summary of what these papers contain. The pith of them has been extracted and will be found set out as succinctly as possible in the Statement of Objects and Reasons. It does not seem necessary for me to do more at present than to explain first, the grounds for undertaking legislation, and, secondly, the general purport of the measure which I wish to introduce.

"I justify legislation on the short ground that throughout India fish form one of the most important food-supplies of many classes, and that the papers contain abundant evidence that they are almost everywhere wastefully destroyed and in many places becoming less plentiful. I shall not stop to quote the evidence, as I believe these two facts are generally admitted: I have certainly seen them repeatedly mentioned by the Press as well recognized and indisputable. The delay which has occurred in bringing the matter to a head has not been due to any doubt as to the expediency of legislating, but only to the difficulty of determining what remedial action can best be taken, due regard being had to the rights of private proprietors and to the habits and legitimate practices of indigenous fishermen.

"At various times the Government of India have been strongly urged to undertake at once a strict and comprehensive control over all the fisheries of the country, but I am glad to say that this heroic counsel has not prevailed. India is not yet ripe for elaborate legislation on the lines which have been followed in the United Kingdom, and I doubt if it ever will require to be dealt with in the same manner. Moreover, even if a minute supervision were in itself desirable, we are

not yet in possession of sufficient information to enable us to determine the proper methods or limits of its application. The very modest Bill which I am about to lay on the table contains only two provisions which will have general effect and extend to private waters; and one of these has for its object the protection of private rights in fish rather than the protection of the fish themselves.

"The Bill may be conveniently considered as made up of three parts. The first part may be said to consist of sections 4 and 5, with a schedule. Its effect is simply to forbid, everywhere and absolutely, the use of explosive or poisonous substances for the purpose of catching fish. It would be superfluous to offer any arguments to justify such an obviously reasonable provision. Poison and dynamite destroy all life within the area over which they are effective. By their action, fish that are fit for food are rendered more or less uneatable, while multitudes of fry, useless at the time for food but upon which the food-supply of the future depends, are destroyed prematurely.

" The second part comprises sections 6, 7 and 8 with the definition of 'private water' contained in section 3. This part merely re-enacts with some slight modifications an Act (No. II) which was passed by the Bengal Government in 1889 for the prevention of poaching in private waters. As the Council will probably remember, that enactment arose out of certain judicial decisions to the effect that fish not strictly confined, but having means of ingress or egress, must be regarded as *ferœ naturœ*, which are not property and may therefore be lawfully captured. The Bengal Act remedied this by making it an offence to fish, or to place any engine for the capture or destruction of fish, in any water which is the exclusive property of any person, or in which any person has an exclusive right of fishery and fish are not confined but have means of ingress and egress. My Bill re-enacts this provision and makes it of general application throughout India. The only material modification is that I propose to omit the clause about the means of ingress and egress. I take it that it was inserted because it was thought that if the fish were so strictly confined that they could neither get in nor out even in a time of flood, they would be regarded as property and their capture would be punishable as theft. This opinion is probably correct, but it seems to me that no harm will be done if the present enactment somewhat overlaps the Penal Code, while on the other hand the retention of the clause in question might give rise to lengthy and unprofitable enquiries as to the height of floods and the possibility of fish escaping. If it is to be an offence to take fish which can at such times escape, *o fortiori* it should be an offence to take fish which are strictly confined and I can see no harm in saying so.

"The third and last part of the Bill relates only to waters which are the property of the State, or for the control of which by the State the private owners and all other persons interested have given their consent. It consists of one long section, the ninth, divided into sub-sections, and its effect is to enable a Local Government by rules to prohibit or regulate in such selected waters any of the following matters :—

(*a*) the use of fixed engines for the capture of fish ;

(*b*) the construction of weirs ;

(*c*) the use of nets with a mesh smaller than a minimum to be specified in the rules ;

(*e*) the diversion or baling of the water for the purpose of catching fish.

"The rules may also (*d*) prescribe a close season on such waters for all or any kinds of fish, may prohibit their capture or sale during such close season, and may even [sub-section (*4*)] prohibit fishing altogether for a period not exceeding two years. The rest of section 9 and section 10 contain mere subsidiary provisions, which call for no special notice.

"It is intended that this power to make rules for the strict control of fishing shall be applied with great caution and restricted for the present to a few selected hill-streams and head-waters, to which many of the species of fish most prized for food resort for spawning purposes, and in which, owing to the small size of the river-beds, their capture is easy. The principal and ultimate object of course is to protect the spawning fish and the young fry in such localities and at a times when they obviously need protection : but another and not unimportant object is to gain information and experience as to the sort of protection needed, as to the private rights and customary practices (if any) which the public interests require to be controlled, and as to the best lines on which any more elaborate or extensive legislation (if such should be required) may hereafter be based. It seems tolerably certain that no restrictions are either necessary or practicable on the larger rivers of the plain-country. They are not required because the spawning season seems to be coincident with the monsoon, when the natural floods provide adequate protection : they would not be possible because, when such rivers are in fresh, no small conservancy staff such as the State can afford would be able to exercise any effective control.

"These considerations, as is remarked in the Statement of Objects and Reasons, practically confine the issues involved to the smaller rivers or head-waters, and even as regards them we desire to proceed cautiously and tentatively. I have been warned from several quarters there will be great difficulty in discovering State-waters even for such limited and experimental treatment, but I am sanguine enough to hope that there are many private riparian proprietors with sufficient public spirit and intelligence to come forward and co-operate with the State for the important purposes in view. The ultimate benefit to themselves should in most cases be a sufficient inducement, but special circumstances may justify the Local Government in taking a lease of private water or otherwise securing its control for a reasonable consideration. I can only add that, if my expectations in this respect are disappointed, it may become necessary to undertake further legislation for the purpose of expropriating private rights of fishery, and perhaps even of asserting the supreme rights of the State. At present, however, the Government of India prefer trusting to the voluntary co-operation of those privately interested.

"As regards the several objects to which the rules may be directed, and which I have already enumerated, I do not think that any detailed explanation is called for. The power entrusted to Local Governments is merely enabling, and they may be trusted to exercise it with due regard to local circumstances and to practices hitherto permitted; the necessity of satisfying the Governor General in Council in each case will itself go far to ensure caution. There is, however, one point on which I find serious misgivings have been widely entertained, and that is the prescription of a minimum mesh for nets. This indeed, as will be seen from the Statements of Objects and Reasons, was one of the points upon which the members of the Conference, convened at Delhi in 1888 to discuss the whole subject, were unable to agree. But it must be remembered that what they were considering was a comprehensive measure which was to have universal application. So far as I am aware, it has never been disputed that at certain time and places it is absolutely necessary to regulate the mesh of nets; and, if such a provision is ever needed, surely it is required when the young fry lately hatched are descending to the larger rivers where they may have some chance of attaining maturity."

The Motion was put and agreed to.

The Hon'ble SIR PHILIP HUTCHINS also introduced the Bill.

The Hon'ble SIR PHILIP HUTCHINS also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 19th October, 1893.

S. HARVEY JAMES,
Secretary to the Government of India,
Legislative Department.

SIMLA;
The 13th October, 1893.

NOTE.—The Meeting fixed for the 5th October, 1893, was subsquently postponed to the 12th idem.

S. G. P. L.—No. 190 L. D.—13-1-12—50—H. M. B.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Acts of Parliament 24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14.

The Council met at Viceregal Lodge, Simla, on Thursday, the 19th October, 1893.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G., G.M.S.I., G.M.I.E., *presiding*.
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir P. P. Hutchins, K.C.S.I.
The Hon'ble Sir D. M. Barbour, K.C.S.I.
The Hon'ble Sir A. E. Miller, KT., Q.C.
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble W. Mackworth Young, M.A., C.S.I.

INDIAN STAMP ACT, 1879, AMENDMENT BILL.

The Hon'ble SIR DAVID BARBOUR moved for leave to introduce a Bill to amend the Indian Stamp Act, 1879, with respect to Policies of Sea-insurance and Sale-certificates. He said :—

"It is only proposed to amend the Act in two respects—first, with reference to policies of sea-insurance, and, secondly, with reference to the rate of duty chargeable upon sale-certificates. Under the law as it at present stands, a policy of sea-insurance is chargeable with stamp-duty at the rate of four annas when the amount insured does not exceed Rs. 1,000, and with four annas additional for every further sum of Rs. 1,000 or fraction of Rs. 1,000.

"It has been represented that the rates of duty chargeable in India are in excess of the rates chargeable in the United Kingdom, and that in consequence a good deal of sea-insurance business, which used to be transacted in India, is now transferred to the United Kingdom and other countries. The Government of India are of opinion that the rates chargeable in India ought to be reduced, and the main object of the present Bill is to assimilate, as far as may be, the stamp

law of India respecting policies of sea-insurance to that prevailing in the United Kingdom.

"It is proposed that, in future, policies of sea-insurance should, for the purpose of the levy of duty, be divided into two classes. The first class includes policies made for or upon a voyage, and the duty in the case of such policies will be one anna where the premium or consideration does not exceed the rate of one-eighth per cent. on the amount insured. In any other case the rate will be two annas per Rs. 1,000 or fraction of Rs. 1,000 insured.

"The second class includes policies made for a time, and the rate will be three annas per Rs. 1,000 or fraction of Rs. 1,000 insured when the policy is made for a time not exceeding six months, and six annas when the policy is made for a time exceeding six months and not exceeding twelve months.

"Certain provisions of the English law are also made applicable to India, such as that a contract for sea-insurance must be expressed in a policy of sea-insurance, that no policy of sea-insurance shall be made for a term exceeding twelve months, and that a policy of sea-insurance must contain certain particulars.

"The second amendment of the law is merely intended to settle a conflict of opinion which has arisen with reference to the rate of stamp-duty chargeable on a sale-certificate under certain circumstances.

"It has been held by certain authorities that the rate of duty chargeable on a sale-certificate should be calculated with reference to the amount of purchase-money. Other authorities have held that it should be calculated with reference to the amount of purchase-money *plus* the amount of the incumbrance on the property sold. It will now be placed beyond doubt that the stamp-duty is to be calculated on the amount of the purchase-money and not on the amount of the purchase-money *plus* the amount of the incumbrance."

The Motion was put and agreed to.

The Hon'ble SIR DAVID BARBOUR also introduced the Bill.

The Hon'ble SIR DAVID BARBOUR also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as Local Governments think fit.

The Motion was put and agreed to.

1893.] [*Sir Alexander Miller.*]

PRISONERS ACT, 1871, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved for leave to introduce a Bill to amend the Prisoners Act, 1871. He said:—

"There are three or four points in which the Prisoners Act has been found to require amendment. The first is that it has been found desirable to extend to reformatory schools the provisions of Parts III and V of the Act, which at present apply only to prisons, and, as it is of course held that a reformatory is not a prison, it is considered advisable that the advantages of these parts should be extended to reformatories as well as to prisons.

"The second section of the Bill proposes to repeal the clause of the Act with reference to certain orders made by a Judge of a High Court in the case of sentences by court-martial. As far as I understand it, this law was necessary as part of the procedure under the old Mutiny Acts, but has become completely obsolete since the enactment of the Army Act, and consequently may just as well be removed as a mere incumbrance on the Statute-book.

"The third section of the Bill proposes to amend, in two particulars, the 16th section of the Prisoners Act, which is the section which provides that the sentences by certain Courts acting under the authority of the Governor General in Council or of any Local Government may be carried out in any jail in India; and it is thought desirable to extend this in two ways. First of all as to acting under the authority of the Governor General in Council or of a Local Government, there seemed to be some doubt as to whether that provision was not confined to Courts within British India, and therefore we proposed to substitute for the words 'acting under the authority' the words 'acting, whether within or without British India, under the general or special authority'. That will enable such Courts, wherever they may sit, to have their sentences carried out under this section.

"Then we propose to extend the provisions of the section to certain special cases where Courts which are not acting under the authority of the Government but under the authority of a Native Prince or State in alliance with Her Majesty have passed a sentence which the Governor General in Council thinks ought to be carried into effect in British India: and, therefore, we have provided that, with the previous sanction of the Governor General in Council, to be specially given in each case, such sentences may be carried out in British India.

"Then a question arose some twenty years ago with reference to certain Courts which are held in Native States under the authority of the State, but

whose sentences cannot be carried out unless confirmed by a British officer, whether such Courts were or not Courts acting under the authority of the Government of India for the purposes of this section; and two very high authorities, neither of whom I should venture to differ from unnecessarily, came to diametrically opposite conclusions on the point. Mr. Stokes thought that such Courts were not for any purpose Courts sitting under the authority of the Government of India. Lord Hobhouse thought that, in respect of the particular sentences which could not be executed without confirmation by a British officer, they were Courts acting under the authority of the Government. I have no intention of asking the Legislature to determine the question as between these two authorities, but I think it will be sufficient for our purpose to provide expressly that, where such a sentence which cannot be executed without the concurrence of the British Government has been considered and confirmed on the merits by a British officer authorised to do so, that shall be considered to be the sentence of a Court acting under the authority of the Governor General in Council, so as to bring it within this section. I do not think it necessary to go further. If a case should arise which would not be covered by this provision, there is nothing in the clause which I am now proposing which in any way impugns the authority of the opinion which Lord Hobhouse has given; but I do not think it is the least necessary specially to recognise so much by legislation.

"The fourth and last clause of the Bill proposes to alter the 19th section of the Act in three particulars. As the Act stands at present, only the Local Government can authorise the reception, detention and imprisonment in any place in British India of prisoners who have been sentenced by certain Foreign Courts. Now, it is very convenient for many purposes that the Governor General in Council should have the same authority over all India that each Local Government has in regard to places under itself, with reference to authorising the detention of prisoners; and therefore we propose, in the first place, to extend the power of authorising the detention of prisoners to the Governor General in Council.

"Secondly, in the Act as it stands, it is provided, after giving a long list of offences to which the section applies, that it shall also apply to any offence which the Governor General in Council has, by notification in the Gazette, included in the section; and by a notification, dated 12th August, 1872, this section was extended to a number of offences which may be described generally as extraditable offences. It is thought desirable that, instead of that remaining on the authority of the notification, it should appear on the face of the Act. This does not alter

the law as it stands, but merely puts into the Act specifically that which has got into it by means of this notification, and which has been the law for the last twenty years.

"Lastly, the proviso to this section is to the effect that the sentences to which it applies must have been pronounced after trial before a tribunal of which one of the Judges was an officer of the British Government authorised to act as such Judge by the Native Prince or State or by the Governor General in Council. On this wording of the Act it seems to have been decided—at any rate it was the opinion of both Lord Hobhouse and Sir Andrew Scoble—that it did not apply to any sentence pronounced by a single British officer sitting as a single Judge, and that in order that the section should apply there should be a mixed Court, of which at least one Judge was a British officer, but with whom there must have been associated at least one Judge of the Native State. That has been found inconvenient in practice, and, as I conceive that the object of the section is merely to secure that these sentences shall have been pronounced with the concurrence of a British Judge, I think it is desirable to get rid of this inconvenience by enacting that the sentence shall have been pronounced after trial before a tribunal of which the presiding Judge, or, if the Court consists of more than one Judge, at least one of such Judges, was an officer of the British Government. That will cover all the cases that come within the Act as it stands at present, and will also provide for the case which has arisen, and which may arise again, where either the sole Judge or all the Judges are British officers, cases which are at present not considered to come within the Act.

"I will only add that it has been proposed to extend this proviso also to cases where, although the Court which tried the prisoner did not contain any British officer, the sentence was afterwards confirmed executively by a Council or Board of which a British officer was one of the members I do not myself consider that desirable, but the question is certainly arguable; and if, when the Bill goes before the Select Committee, the Select Committee should think it desirable to extend the proviso in that way, I should not offer any violent opposition."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also introduced the Bill.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English,

and in the local official Gazettes in English and in such other languages as Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned *sine die*.

S. HARVEY JAMES,

Secretary to the Government of India,

Legislative Department.

SIMLA;

The 20th October, 1893.

G. C. Press, Simla.—No. 371 L. D.—20-10-93.—316.